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ONTARIO
LEGISLATIVE ASSEMBLY.

THE PROCEEDINGS OF

THE SELECT COMMITTEE
ON
LABOUR RELATIONS

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1
Parliament Buildings
Queen's Park
Toronto, Ontario

TUESDAY,
May 6th, 1958

MORNING SESSION (Cont'd)
AFTERNOON SESSION

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q. C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
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George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

MR. MILLER STEWARD, Sturgeon Point, Ontario.

PRESENTATIONS:A BRIEF ON CONCILIATION AND ARBITRATION PROCESSES IN ONTARIOAPPEARANCES:

MR. BRUCE MAGNUSON
MR. SAM WALSH
MR. ALFRED DEWHURST

PRESENTATION:A BRIEF ON BEHALF OF THE LABOR-PROGRESSIVE PARTYA PRIVATE BRIEF BY MR. RONALD WATERSON

MILLER STEWART BRIEFMR. MYERS ACTING CHAIRMAN

MR. MYERS: Mr. Stewart, we have twenty minutes before lunch. . . would you like to start on your brief now?

MR. STEWART: I don't think it will take much more than that time.

MR. MYERS: All right, then.

MR. PERKINS: Mr. Chairman, I would like to introduce you to Mr. Miller Stewart who has had a large number of conciliation boards and extensive experience in the conciliation processes, and he is presenting this brief to us this morning giving his views on that subject.

MR. STEWART: Now, Mr. Chairman, I would first like to explain why this is such a lonely brief. . . sometime last fall there was a meeting of people interested in conciliation procedure on both sides of the table and we decided that we would submit a brief to this . . . to the government, at that time. However, the management representatives who were on this ad hoc committee one by one got up and delivered briefs on behalf of management at one time or another and they felt that they could not join in the general brief when they had taken a position on behalf of several. . . the Manufacturers' Association, the Automotive Manufacturers' Association, and so on. . . and the labour members were all. . . have all appeared before you in one capacity or another, so they finally decided that they would let me carry the ball alone. I am going to read my brief, if you don't mind.

(MR. STEWART READ BRIEF IN ENTIRETY)

MR. MYERS: Any questions?

MR. MACDONALD: Well, is there any reason why the purely routine clerical procedures can't be streamlined?

MR. METZLER: Are you referring to any particular. . .

MR. MACDONALD: I'm referring to the section with reference to slow pay.

MR. METZLER: Well, I think it is up to the members of the conciliation boards to assist us by submitting accounts that will stand up. That would reduce the time that's involved. You might just as well accept this fact,

that when an account is submitted to the government for payment there's a routine that has to be followed, namely, it comes into the department, the auditor has requested that all accounts bearing on a single transaction, namely, one board of conciliation, be submitted at the same time so they can be cross-checked to see whether the number of days that are involved and the other things that are inherent in the cost correspond and jibe with each other.

MR. MACDONALD: Well, why must you have this multiple cross-checking procedure when the Federal Department of Labour doesn't require as much?

MR. METZLER: Mr. MacDonald, there is a routine of administration of government money that is not laid down by any particular department. It's the responsibility of the Audit Office and the Treasurer's Department, and we follow that routine in the payment of any and every account, whether it is for goods, services, or whatever it may be. We can't do any differently with that routine in connection with the remuneration of conciliation board chairmen, and members.

MR. MACDONALD: Are you saying that it is impossible to change that routine?

MR. METZLER: Well, you get the three accounts in. . . you make a routine check. . . they are checked by my accountant or in his office . . . they're checked quickly. They may say we think that this account is wrong because of certain charges that are made. Well, what do you do with them? You have to either get in touch with the person who has presented the account and say -- now, look, I'm returning this account. My accountant says that these charges are not proper, would you please reconsider them? -- Then they are submitted in the normal order of business with a request on the Treasury Department to pay the three accounts. The routing of government accounts is that they first go the audit office and they are audited and then are sent on to the Treasury Department for payment. I can't suggest to the government that they should alter their method of operation in connection with conciliation board . . .

MR. MYERS: Are there any other questions?

MR. METZLER: . . . people. And another thing. . . I'd like

this in respect of the alteration of accounts. . . I am very loath to assume the responsibility for chopping a man's account up. I don't think. . . if there is anything wrong with it I'll send it back to him quietly. . . we have a form. . . and say this account is not in acceptable order (a) because proper receipts are not attached. Now, if you travel for the government you must have your hotel receipts, you must have your railway receipts, you show certain expenditures. The government won't accept them without those vouchers.

MR. MACDONALD: Mr. Chairman, I don't want to pursue this very much further, except this that you have in many instances people who are travelling for the government and they don't have to be travelling with other board members, they are doing a specific job as specific individuals, and you can't check or double-check that individual account without having to cross-check it with other ones, and I don't see why in the one specific point of having to wait to see whether it harmonizes with the reports that are going to be put in by other members of the board. That's the only point that I am focusing attention on at the moment.

MR. METZLER: Well, it's a question of administrative routine. We like to get all the accounts in. I think it is understandable. If you've got one transaction, a board of conciliation, you want to pay them all at the same time. It cleans the whole thing out at one fell swoop.

MR. MYERS: Anything more? Has anybody any. . . have you any questions. . . ?

MR. MACDONALD: Well, Mr. Chairman, I am curious about the reason for this directive, which I assume is rather recently, forbidding executive sessions of the board without the chairman there.

MR. METZLER: Mr. Chairman, I must confess that the directive was mine. And, the reason for it is simple. We have run into the situation where somebody decides they better have an executive session, the hearings may be over for a week or so, there is no settlement of the issue, so they say -- well, let's get together. Well, it just costs \$180.00 to bring the chairman in from out of town, he gets one day's travel time coming, a day for the executive session and a day going. . . the two members may come in from out of town, so the thing winds up with three or four hundred dollars of expenses

and no results. I mean, there's logic in this thing. My reaction, if I may express it, to a conciliation board. . . if they bog down, they should try to set aside sufficient time at the very time that they are bogged down to discuss the issues amongst themselves. There's no problem. And, come to a conclusion as to whether or not they are in agreement with any part of the submission that has been made by both sides of the house.

MR. MACDONALD: Well, if I understand the problem here, though. . . when they have bogged down, whether they meet again that day or the next day or two weeks after. . . your directive forbids the two side parties to meet without the chairman, is that not. . .

MR. METZLER: Oh, no. . . that is inherent in the legislation. I'd like to say that. . . that is inherent in the legislation. . . you cannot have a meeting of a board of conciliation without the chairman present. That is right in the Labour Relations Act. Now, there have been instances where the two members, and I support Mr. Stewart's statement wholeheartedly, that this is a skilled business. This has long since gone beyond the situation of the old I. D. I. A. Act where you might have three or four boards of conciliation over a period of eighteen months, and you can be leisurely about, this is a business. It is almost a. . . it is a professional business, yes. . . and these men are skilled, and I give Mr. Stewart his due, he states that he is an experienced practitioner, and I support that point of view, and I think I know of instances where he, and possibly the employer representative, because of the illness of the chairman or some reason of his being unable to attend a particular meeting, have sat down together and settled a dispute. . . the two members. That has occurred. And, then I have the problem of saying to the Provincial Auditor. . . notwithstanding that there was not a meeting within the meaning of the legislation, I recommend that the payment of these accounts in virtue of the fact that the results that were sought by everybody have been accomplished.

MR. MACDONALD: Well, the question resolves itself to this, then. . . Would there be danger in making it permissible in the Act, under such circumstances as that for the two side partners to sit down and discuss it? I mean, your problem is that the Act makes this illegal.

MR. METZLER: No. . . my problem isn't that. There is a

reason for the directive and I've had to modify it. . . a person has called me . . . now, look, we think that we can get this thing lined up but we need a meeting. Well, if there's reasonable propriety attached to it, we are not concerned with that. . . but I don't want to see a wide-spread practice develop where ten days after the event somebody says -- well, let's have an executive session -- it costs about three or four hundred dollars to the Department of Labour -- and see what we can do with this. For one thing, it defeats the very purpose of assisting in the dispatch of it, which is most important in this picture. I'm concerned with that, so, as to the money. . . Mr. Stewart makes mention of the fact that he considers that it may be that there has been a limitation on the amount of money available. Well, that is not so, I am sure, for the very obvious reason that the cost of the administration of the conciliation service, cannot be fixed at any particular time. . . we don't know what it is going to cost. . . we take our last year's experience usually and say -- well, all right, ask the government to revote that amount. I think it runs about \$150,000.00 a year. Now, if it costs \$200,000.00 a year, the money will have to be made available because the services require it. There is no such thing as saying we're short of money to handle the thing. . . it's an essential service that has been established and you must pay according to the exigencies of the service. Now, I would like to make one further comment on one or two aspects of this thing. . . I don't want to tie you gentlemen up, but I know that this is a well-reasoned document. . . Mr. Stewart has had a lot of experience and he has given a great deal of consideration to it. I don't think it takes seven months to complete every board of conciliation, nor do I say that that is even a median. . . we have some statistics here which will be coming up next Tuesday which discusses the whole problem over a two year period that we chose to analyse for you previously. I am equally concerned with Mr. Stewart and others with regard to recruitment of chairmen of boards of conciliation. I will take them from any source, but it must be perfectly obvious to all of you that it is a very difficult thing to say that you're going to recruit only in this direction, from the universities. . . no. . . there are other people that should be available. One of the real problems is to move a man over into the center of things. Now, you get good men. . . I had a man who recently left the ranks of

the trade union movement where he had had quite an amount of experience and I think was a first rate man. It is my proposal, at the earliest possible date, to use that man as a conciliation board chairman. But, you don't start him off by throwing him into the maw of one of the most difficult labour relations situations, because if you did you would destroy him out of hand. You've got to give him an opportunity to become accustomed. So, what you do, is you try to pick a dispute that maybe in the scheme of things might be considered a minor dispute, nevertheless it has to receive all the attention and processing of a major dispute. . . you put him in there where the issues are narrow where you feel that there are one or two good men on the board who will make sure that they get down to work for a settlement. Now, that is the way that we usually have tried to train our chairmen, and I don't know how you can do otherwise. You can't teach this business. The thought of trying to set of a school for chairmen of boards of conciliation does not ring a bell. You've got to find people who have got some knowledge of industry, some background. You can't go to the universities and say -- well, we're going to take the fourth year class of poly-con, or something like that and say -- now, we'll give them a training . . . those people are just coming out of their period of scholastic attainment, they have had little or no experience in the struggle to make a living, to understand that it's a little more difficult than a person might appreciate. I think that they should go out and get a few years of experience under their belt in business in one way or another before they become available, when they have the practical knowledge to take part in this thing. There's no doubt about it that there are a good group of people on labour and management's side that are available for this type of thing. I think that one of the faults that Mr. Stewart, in his brief, imputes to the question of the lack of chairmen is equally applicable to both labour and management in their choice of the side men, as he calls them. There are not enough of them devoting themselves to the problem. I made a statement, I repeat it. . . on actual count that there was one man, over a period I would say of possibly a year or a year and a half, I say to sit on forty-one boards of conciliation. . . that is completely and literally and utterly impossible and it defeats the very purpose of the legislation, because it means that the man has not got enough time to assist his chairman and to

assist his confrere on the board, to get the reports out, to finish off the business.

MR. MACDONALD: Well, Mr. Chairman, there is one more question I would like to ask Mr. Metzler. . . maybe this is unfair to put it to him personally but. . . if these people are as you conceive now of professional status. . . how do you expect to attract in and increase the number that would be available if the per diem amount is \$20.00 a day?

MR. METZLER: Well, I'll answer you that in this way. It is my firm conviction that everyone of these men usually has some other form of employment and he is not being docked, he is receiving his regular salary in his other capacity. . . we raised the per diem allowance of chairmen here three or four. . . I think it was three years ago. . . and the basis upon which the raise took place was because of the fact that we had been using the judges and the Federal government had been paying. . . they stated that you can't pay the judges. . . but they had been granting them a living allowance of \$60.00 a day.

MR. MACDONALD: What, in effect, you're saying then, is you want available a professional service on a part-time basis to be called upon when you want it. . .

MR. METZLER: Mr. MacDonald, I think that that is possibly one of the strengths of the conciliation procedure that this has always been handled on an ad hoc basis. If you go to work. . . you try to set up the so-called permanent or semi-permanent tribunals, you're going to get into trouble, because you're going to have a waiting list as long as your arm, just as you have the problem of trying to get business dispatched through the Labour Relations Board. . .

MR. MACDONALD: I agree with that, but I think we're evading the point I'm trying to get at, that if you want to have more people come in and not overload those who are there, and if they are genuinely professional, inevitably they are going to be sort of full time employees even if it is going to be on a series of ad hoc occasions. . . but, I doubt whether you are going to end up by attracting very many people on a \$20.00 a day basis.

MR. METZLER: Mr. MacDonald, let me put this to you, that

the choice of the side men doesn't rest with the Department of Labour, it rests with the parties, and there is nothing to say that a particular individual who is being used today is going to be used tomorrow, but he will be, if you take him from management's side of the house, he'll be a director of industrial relations for a particular company. . . now, the reason why he will do that type of work because his company will say to him -- well, Joe, you'd better do it because Bill Brown did it for you from such and such another company -- there's a reciprocity in this business as amongst the groups. The same thing holds true, I think, to a certain extent with the trade unions.

MR. MYERS: What time is it now? I think. . . is there anything more that you want to ask Mr. Stewart? All right. Thank you very much, Mr. Stewart. It will be very useful to us to have your views and I am glad to see that they are concurred in to the most part by Mr. Metzler. The Committee, then, will adjourn until two fifteen.

APPEARANCES:

MR. BRUCE MAGNUSON
MR. SAM WALSH
MR. ALFRED DEWHURST

PRESENTATION:A BRIEF ON BEHALF OF THE LABOR-PROGRESSIVE PARTYMR. MYERS ACTING CHAIRMAN

TUESDAY, May 6th, 1958.

AFTERNOON SESSION

MR. MYERS: Well, gentlemen, the brief of the Labor-Progressive Party of Ontario Committee is before our Committee represented by Mr. Bruce Magnuson, Sam Walsh and Mr. Dewhurst. What we have been doing is to have someone read the brief and then we shall go over it page by page and we'll ask you questions if we want to.

MR. MAGNUSON: Mr. Chairman, before I begin to read the brief I may say that I am happy to be here on this occasion because it is a considerable time now since I appeared to read a brief concerning the Labour Act in fact, I think I participated in presenting two, one was at the time that the Labour Act first came into being, and the second one was at the time of a recent amendment at which time I presented a brief in the capacity of an officer of the Ontario Federation of Labour. Today I have the privilege of reading this brief to the Committee from the Labor-Progressive Party.

MR. MYERS: Would you mind telling us before you start just who you are. . . who is the Ontario Committee . . . how many people do you represent?

MR. MAGNUSON: Well, the Labor-Progressive Party is a political party . . . we represent the section of the Labor-Progressive Party which speaks for its members in the Province of Ontario. Now, I am the head of that committee and the members with me today, on my right, Mr. Dewhurst, a member of the executive, and Mr. Walsh, also a member of the executive.

MR. MYERS: The committee, I suppose, is elected by. . .

MR. MAGNUSON: The delegates of the convention of the Party.

MR. WREN: How many members do you have in Ontario?

MR. MAGNUSON: Well, I can't tell you off hand how many members we have in Ontario. . . they'd be conservatively estimated at, let us say, three or four thousand.

(MR. MAGNUSON READS ENTIRE BRIEF)

MR. MYERS: Has anybody any questions on Page 1?

MR. MACDONALD: Mr. Chairman, I have a brief question on Page 1. Do you go along with the proposal which is voluntarily made by some unions, those in the public service field, of foregoing their right to strike with the alternative assurance of compulsory arbitration?

MR. MAGNUSON: Well, in answering that, Mr. MacDonald, I would think that that would be their right if that was done on a voluntary basis.

MR. MYERS: Page 2. . . What do you think of a secret vote in every case before certification?

MR. MAGNUSON: Well, that is pretty hard to answer yes or no to, Mr. Chairman, because I would prefer a situation in which the unions. . . where the unions can prove that they represent the majority of the employees in the bargaining unit. . .

MR. MYERS: The only thing. . . most of the employers have told us that they believe that pressure has been brought by the unions on employees to sign up with the union, and it seems to me that any doubt on that point could be removed if there were, in every case, a secret vote.

MR. MAGNUSON: That is true. . . that is the problem because in some cases it would be better if the vote were to be held, but we have had many cases, at least in my experience, where a vote has been desirable but has not been granted, and it would be desirable to have a vote in many cases.

MR. MYERS: Why wouldn't it be desirable in every case in which the employer wanted a vote?

MR. MAGNUSON: Well, say, if the employer wants a vote, I suppose a vote could be held, but in cases where it is obvious, then I think it would be unnecessary.

MR. MYERS: Well, then, he wouldn't want a vote.

MR. WALSH: I might like to add with respect to that point. The problem of pressure, in my experience and I think the experience of any

organizer in trade union work, the problem of pressure on employees coming from the union. . . the employee very frequently, indeed, takes quite a chance when he puts his name down on an application form and pays his initiation relying on what may be long litigation and other. . .

MR. MYERS: Well, why not eliminate all the chances of that either way by having a secret vote in every case?

MR. WALSH: Well, let me put it this way. . . once a vote is taken, the methods of applying compulsion on an employee which are open to an employer are incomparably more. . . well, they are probably more in the hands of the employer than of the union, and the insistence upon a vote with respect to the employer can only be because he is trying to prevent the union from coming in. Personally, I don't see what the employer has to do with that question all together. I don't know why the employer should have anything to do with whether members of his plant may be represented by a particular union or not. It is not up to him at all to demand or request a vote.

MR. MYERS: No, it is up to the union and the men to do what they want. . .

MR. WALSH: That's right. . .

MR. MYERS: . . . but the employers say the men are not doing what they want because they are being pressured by some union.

MR. WALSH: Well, you see, I don't think that it is his responsibility in the first place to protect the men from what they say what they want. Now, as to the question as to whether there should be a vote or not may be a question as between this Board. . . between a board, to see whether the union does actually represent the wishes of the majority of the people who vote, or, as in the case of the Act, those who are employed in the particular bargaining unit. But, I fail to see what responsibility or right the employer has with respect to this matter altogether. The union doesn't object when the employer joins an employers' association and has no authority at all as to whether he has to take a vote or not.

MR. MYERS: Page 2(a). . . Page 3. . . Page 4. . . Page 5. . . Can you think of any case in which an injunction has been granted to do anything else but to restrain the performance of an illegal act?

MR. MAGNUSON: There have been a number of cases. . . out-right I just can't think of. . . enumerating them off hand. . . but there has been many such cases.

MR. REAUME: Mr. Chairman, I'm not too clear on this, but wasn't the Lever Brothers strike a case in point?

MR. MYERS: As I understand it, the court will grant an injunction only for the purpose of restraining something which is illegal, and I was just wondering what objection you could have to an injunction having regard to the circumstances under which it is issued and only under which it is issued?

MR. MAGNUSON: But, picketing, Mr. Chairman, is not illegal.

MR. MYERS: But it is in many cases, yes. It has to be informative picketing, but when it becomes a picketing that cuts tires and throws shellac in cars and so on it is, to my mind, illegal, and I can't see why it shouldn't be restrained by an injunction, and I would like to know just why you think it should be.

MR. WALSH: Well, I think there was a distinction, Mr. Chairman, between picketing and the cutting of tires and throwing the shellac. Now, what has happened is. . . the objection that we take, is that where an injunction in form may be to restrict an illegal activity, in effect, it is to restrict quite legal activities.

MR. MYERS: Well, would you mind telling me some cases where an injunction has been used to restrict a lawful activity?

MR. WALSH: Well, if picketing. . . if the walking up and down before a plant and informing people that there is a strike on in the plant and seeking to persuade people in a legal way. . .

MR. MYERS: When has that been restricted by an injunction?

MR. WALSH: When an injunction reduces the number of people who can do that and who may inform the public, I think it is restricting the legal rights of the men who are prevented from doing so. . . from doing what they have a legal right to do under ordinary circumstances, so that the effect of it. . . the effect of the injunction is to harm the possibilities of the union involved in informing the public as to what they are doing. . . it is like

saying. . .

MR. MYERS: No. . . I mean. . .

MR. WALSH: It would appear to me it's like saying to a company you can only spend so much on advertising your product and a favour -- you can spend so much. . . which has an effect.

MR. YAREMKO: Well, can you suggest anything else besides an injunction. . .

MR. WALSH: I would certainly think that an injunction should not be used in labour disputes with respect to labour disputes. . . an injunction against illegal acts which are not involved in the relationship between the union and the management is an entirely different question. It seems to me that the Labour Relations Act is the Act which should govern relations in labour disputes.

MR. MYERS: How would you restrain the commission of illegal acts?

MR. WALSH: Pardon?

MR. MYERS: How. . .

MR. WALSH: Well, I think we have the normal police force and the normal methods of dealing with illegal acts, but the use of injunctions in labour relations runs contrary to the whole spirit of the Labour Relations Act, it seeks to take that out of the courts, or appears to.

MR. MYERS: All right. . . Page 6. . . Page 7. . .

MR. MACDONALD: Would you have any objection, Mr. Magnuson, to adding a rider to your first recommendation there, that a simple majority of these votes should be sufficient to certify a union as the bargaining agent if a majority of those eligible had cast their vote?

MR. MAGNUSON: That should be all right.

MR. MACDONALD: You don't object to that?

MR. DEWHURST: What would be the inference. . . I wish you would elaborate your question.

MR. MACDONALD: Well, the point is simply this. . . the principle that a majority of those voting carries the day, but on condition that at least a majority of the eligible voters expressed their views, so that you

wouldn't have a minority of the people being involved in the election and therefore having, shall we say, less than twenty-five per cent of the people carrying the day?

MR. DEWHURST: It may. . . the point I want to get clear on is this. . . now, when the application is put in for a vote, or the application for certification is based on the employees that are in the plant at the time. Suppose the situation should come about when the vote is actually taken that those who had been registered were no longer employed in the plant.

MR. MACDONALD: Oh, well, I'm not going into that point. . . just assuming that a majority of the eligible voters and those who vote are free and able to vote that day had voted, then the majority of those voting would carry the day.

MR. DEWHURST: It seems to me that would be an improvement over what we have now, although what is proposed is that there should be quite a distinction between who workers may elect to represent them from what there is in both provincial and municipal political life. . . provincially, I think it happens that it's a majority of electors who do vote. . . usually, I suppose, that's the case, not municipally. . . nevertheless the vote is valid and the people elected are taken to represent those who are interested enough to cast a vote. However, the point you are making, as I said, will be a considerable improvement over what we have now.

MR. MACDONALD: I think it is a theoretical point because I doubt whether there's one in ten thousand votes taken in trade unions where there isn't at least a majority of the people voted, but I think it is a fair ethical point that should be made for the simple reason that one of the arguments that you usually get in return from management is -- well, if you just take a simple majority of those voting you may have a very small minority in the plant, in effect, showing the others up, because a great many didn't bother to come out and express their vote to meet that objection by the rider.

MR. DEWHURST: If our voice, added to this particular proposal, would help to get that amendment through the Act, I'd certainly be in favour of it.

MR. MYERS: Any other questions? Well, gentlemen, may

I say on behalf of the Committee that we thank you very much for your brief and for your presentation and we shall consider the matters which you raised.

APPEARANCE:

MR. RONALD WATERSON - Toronto.

PRESENTATION:

A PRIVATE BRIEF ON CONDUCT OF EMPLOYERS

MR. PERKINS: Mr. Chairman, if it pleases you, I have a small brief here that this might be an opportune time to put on the record. Mr. Waterson has been waiting for an opportunity to meet you and he is here now and the rest of the week is fairly well full up.

MR. MYERS: Mr. Waterson, will you come to the table, please? Will you tell us something about yourself, please, before you read your brief?

MR. WATERSON: I am just an ordinary individual.

MR. MYERS: I think perhaps you're the type of fellow that we would perhaps rather hear from than almost anybody else.

MR. WATERSON: I am just an ordinary fellow. I don't represent labour nor I don't represent management as such, and I am not involved in the labour lawyer, management consultant or anything, merely an ordinary individual.

MR. WREN: What do you work at normally, Mr. Waterson?

MR. WATERSON: I have now a part-time job as a cleaner which I am quite happy with.

MR. MYERS: A which?

MR. WATERSON: A part-time job cleaning. It keeps me happy.

MR. MORNINGSTAR: What was that, Mr. Chairman? What does he do. . . clean?

MR. WATERSON: Clean. Oh, I'm not a lawyer. . . I may say I am probably the only just an individual who has appeared before the Committee

(REPORTER'S NOTE: In consecutive numbering the pages 4048 and 4049 were inadvertently omitted. The text of the transcript continues from page 4047 to 4050.)

so far. . . Practically everybody else has had an interest in. . . you might say. . . professionally interested in. . .

MR. MYERS: Yes, that's right.

(MR. WATERSON READ HIS BRIEF IN ENTIRETY)

MR. MYERS: Well, thanks very much.

MR. WATERSON: I'm not a professional speaker, now.

MR. MYERS: Any questions about it? Well, let us thank you very much, Mr. Waterson, for going to the trouble of appearing before us and presenting this brief and we will read it again and. . .

MR. WATERSON: I feel it very pertinent, actually. . .

MR. MYERS: Pardon?

MR. WATERSON: I feel it very pertinent because under the present labour legislation an employee who doesn't have the support of his union for any reason is in a pretty tough spot. If he is doing anything and he calls on his own union, I mean. . . you just say. . . well. . . it is very difficult. . . I feel. . .

MR. MYERS: Well, we'll go over it carefully when we make our our report.

MR. WATERSON: Okay!

MR. MYERS: Is there anything else?

MR. PERKINS: On the agenda tomorrow we have the Ontario Professional Foresters Association who have a brief in connection with the exemptions under Section 1. We have a submission from the Fisher Bakery Company of Galt in connection with violence. . . picketing violence, and I have a small brief to file from the Ontario Municipal Electric Association. The United Brotherhood of Carpenters and Joiners are now coming on Friday and the United Glass And Ceramic Workers find that they are unable to attend this week.

MR. MYERS: The meeting is adjourned until tomorrow at ten thirty.



ONTARIO
LEGISLATIVE ASSEMBLY.

THE PROCEEDINGS OF

THE SELECT COMMITTEE
ON
LABOUR RELATIONS

VOLUME NO. Special

PAGES 1 to 19

OFFICIAL REPORTER

W. J. BINKLEY
90 BINSARTH ROAD
TORONTO 5

DATE May 7th, 1958.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 2
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
May 7th, 1958

JAMES A. MALONEY

Chairman

HAOLR PERKINS

Secretary

GEORGE T. WALSH, Q.C.

Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

MR. M. FISHER
MR. A. FISHER
MR. W. FISHER

Galt, Ontario

PRESENTATION:

A PRESENTATION ON THE CONDUCT ALLEGED BY FISHER'S BREAD LIMITED, OF GALT, ONTARIO, TO HAVE TAKEN PLACE BY THE GENERAL TRUCK DRIVERS' UNION, LOCAL 879, AGAINST THE FISHER'S BREAD LIMITED.

NOTE: DUE TO THE FACT THAT THE DELEGATION FROM FISHER'S BREAD LIMITED WERE REQUESTED TO ATTEND THE COMMITTEE AT A FUTURE DATE, Wednesday, May 14th, 1958 at 10:30 a.m. THIS PORTION OF THE REPORTED TRANSCRIPT HAS BEEN PREPARED OUT OF SEQUENCE AND DOES NOT BEAR THE CONSECUTIVE NUMBERING OF PAGES OF THE GENERAL TRANSCRIPT BUT IS PREPARED AHEAD OF TIME FOR REFERENCE PURPOSES.

THE CHAIRMAN: Gentlemen, the next delegation we are to hear from is the Fisher's Bread Company Limited from Galt, Ontario, and Mr. Myers will introduce the members of this delegation.

MR. MYERS: Might I say that the delegation consists of Mr. M. Fisher, who is the president of Fisher's Bread Limited of Galt, Mr. Alonzo Fisher, the Secretary-Treasurer and Mr. Wellington Fisher, who is the Manager and who is presenting this Brief. Mr. M. Fisher, the President, spoke to me a few days ago complaining of the action of a union with reference to his business and I suggested that he should put his complaint in writing and that he ought to appear before this Committee and that is why he is here.

THE CHAIRMAN: Would you just wait for a moment until we get what you have put in writing before us, Mr. Fisher, please. The union involved. . . is that the Teamsters' Union, Mr. Fisher.

MR. W. FISHER: Right.

MR. MYERS: I might say further to the Committee that I passed on a letter I received from Mr. Fisher setting out in part the material set out now in his statement to the Committee's Counsel, and I suggested to the Counsel that perhaps it would be an expedient way of dealing with the matter if the Counsel asked questions, if he saw fit, at the termination of the reading of the statements. So, Mr. Wellington Fisher, you are presenting the Brief, and will you just read it first, please?

MR. WELLINGTON FISHER READ SUBMISSION
IN ITS ENTIRITY WITHOUT INTERPOLATION
OR INTERRUPTION.

THE CHAIRMAN: Mr. Walsh, do you have any questions or comments?

MR. WALSH: There are a couple I want to ask. As far as your employees are concerned, did they ever sign up with the teamsters' union, did they?

MR. W. FISHER: Yes. The Union was certified.

MR. WALSH: The Teamsters' Union was certified. Then did you make a contract with them at all?

MR. W. FISHER: We made a contract with the salesmen in St. Catharines under the circumstances described there for carrying out a strike before a conciliation board had ever met and after the conciliation board had been requested.

MR. WALSH: And these here acts of violence that you referred to in your Brief were they after certification?

MR. W. FISHER: They were on Saturday. . . Saturday, May 3rd. . . that one on the highway.

MR. WALSH: Yes, but were they. . .

MR. W. FISHER: All acts were after certification.

MR. WALSH: And after you had been at the conciliation?

MR. W. FISHER: We had a conciliation board meet only for production employees at Galt.

MR. WALSH: Yes.

MR. W. FISHER: A conciliation board was asked for for the salesmen at St. Catharines, and the Brief says that Fisher's made their appointment thereto, the Department of Labour made its appointment and we never heard that the union made an appointment. We know that the employees at St. Catharines were on strike. . . twice before a conciliation board ever met and no conciliation board did meet then.

MR. WALSH: Did you ever contemplate -- or see any lawyer to take proceedings as you say that this strike was illegal?

MR. W. FISHER: Excuse me, do you mind if I bow out here? I am not the Manager. I wrote down on the paper that I am the Office Manager at head office, Galt. I think there are people here who. . .

MR. WALSH: You took legal advice, did you?

MR. M. FISHER: Pardon?

MR. WALSH: Did you take legal advice about taking some steps to prevent them making other damage to property?

MR. M. FISHER: We called our counselor, who is Mr. McGowan. . .

MR. WALSH: Yes?

MR. M. FISHER: . . . and asked him what to do about the St. Catharines case? The men were standing on the streets refusing to work. And he advised us to fire them. . . they were on an illegal strike. . .

MR. WALSH: Yes?

MR. M. FISHER: . . . and in negotiating with our Manager down there. . . our business is of a nature that if your goods don't be delivered daily you can be out of business almost over night.

MR. WALSH: Yes?

MR. M. FISHER: So we proceeded to call the boys in and signed a contract.

MR. W. FISHER: In which the Brief mentions the goods were left then for that day and not taken out even after we signed the contract.

MR. WALSH: That isn't the occasion where they quit at two o'clock. . . that's the occasion when they quit at two o'clock?

MR. M. FISHER: That refers to the St. Catharines' issue.

MR. WALSH: Is this trouble continuing yet with them?

MR. M. FISHER: In?

MR. WALSH: In St. Catharines.

MR. M. FISHER: In St. Catharines the boys were working.

They were asked by their union to refuse work the morning after the strike in Galt was called. That evening the union boys met in St. Catharines that night asking our employees there to break their contract and go out on an illegal strike which the employees were just intelligent enough not to revert to that attitude. If they had of the shop in St. Catharines would have been locked up. We had just about enough of this fooling.

MR. WALSH: How are conditions now at the present time?

MR. M. FISHER: Our employees are all working, but the two or three that are on strike.

MR. WALSH: I see.

MR. M. FISHER: The entire staff is working. There's been no change. There's been no added forces. As far as our employees are concerned there's been no thought, we haven't discussed the matter with them whatsoever. We haven't negotiated with the teamsters' union since they've been on strike, and to be frank about it, don't intend to do business with people of their type. . . people who encourage illegal strikes repeatedly are people who we could not tie in with.

MR. WALSH: I notice that you say, on the second page, that your salesmen voted unanimously.

MR. M. FISHER: Yes, at a meeting with the salesmen, asked my brother if they could have the office for a private meeting on the date mentioned. He said he didn't see any reason why I wouldn't allow that. So a secret ballot was taken, as the Brief mentions, and that was the outcome.

MR. MACDONALD: Who conducted that secret ballot? Just among themselves?

MR. M. FISHER: Just among the boys there. I think my brother was in the office at the time.

MR. WREN: It amazes me that a conciliation officer and the chairman of the conciliation board would advise you to sign to avoid violence.

MR. W. FISHER: Mr. McLaughlin was the chairman of the conciliation board and McGuire was the conciliation officer.

MR. MACDONALD: Who is Mr. McLaughlin?

THE CHAIRMAN: Chairman of the board of conciliation.

MR. MACDONALD: He is a judge up here.

THE CHAIRMAN: No.

MR. MACDONALD: I don't know the man except that somebody said he might be a retired businessman. I don't know whether he is or not.

MR. W. FISHER: McLaughlin is his name, I am sure of that.

MR. MORNINGSTAR: These people advised you to sign a contract and avoid violence?

MR. W. FISHER: Right.

MR. MACDONALD: Why did you do that? It seems a strange bit of advice. . .

MR. M. FISHER: Yes, it sure does. Well, everything has seemed quite strange right from the beginning. One of the first Briefs that I was handed after we started negotiating, Mr. McGowan being our representative, he quite kindly handed me a magazine showing me pictures and violence of the teamsters' union, and he said, -- "Get the best contract you can, but take the contract." -- and that, naturally, being an independent businessman, as he worked in our own business and is very closely connected, that naturally would form a certain amount of defense, wouldn't it, under threat, but we don't intend to start.

MR. WREN: Did the Department of Labour conciliation officer give you the same kind of advice.

MR. M. FISHER: That's what it mentions in the Brief there.

MR. WREN: Yes, but he said the same thing, in effect. . .

MR. M. FISHER: That we'd better sign the agreement.

MR. WREN: . . . that you'd better sign, but you don't sign.

MR. WALSH: What was his name, did you hear?

MR. M. FISHER: McGuire. He attended a meeting in our office in Galt.

MR. MACDONALD: Well, Mr. Chairman, I think this is an important enough issue and we should certainly get some clarification on it if a conciliation officer is saying that kind of thing. But, I have a number of questions, if I might ask. Approximately how many people are involved in each of these groups listed on Page 1?

MR. M. FISHER: On page one. . .

MR. MACDONALD: Salesmen at St. Catharines. . .

MR. M. FISHER: Oh, in St. Catharines it would. . .

MR. W. FISHER: Twelve salesmen and one distributor. . .
it should be thirteen men.

MR. MACDONALD: How many in Galt?

MR. W. FISHER: Salesmen. . . twenty-eight.

MR. MACDONALD: Kitchener?

MR. W. FISHER: Fourteen.

MR. MACDONALD: And then the production employees at Galt?

MR. W. FISHER: About thirty.

MR. MACDONALD: About thirty.

MR. W. FISHER: Some people who don't actually do much of the bread are still covered by that, certain cases.

MR. MACDONALD: Was there an effort on the part of the union to get a general bargaining unit for all of your various establishments?

MR. M. FISHER: A general bargaining unit. . .

MR. MACDONALD: One unit for them all. All of them are involved?

MR. M. FISHER: No, I don't think so. I don't think so. You notice by the certification, they all took place within a day or two which appeared that if they could get a contract they would like to sew it up.

MR. WREN: You mentioned a Mr. Henderson, Vice-President of the Union -- is he vice-president of the Canadian head office, or a vice-president of the local?

MR. M. FISHER: Well, of Hamilton.

MR. W. FISHER: The letterhead that comes from the Hamilton office says -- Vice-President and Business Manager, or Business Agent, I suppose.

MR. MACDONALD: Now, in your so-called section there -- Our Own Personal Reactions, in the earlier portion of it, the statement is that the results of that vote appeared to be binding irrespective of whether there are many of the "union supporters" still employed later on -- Do I conclude from that that most of the working force, or at least a significant porportion of the working force had changed in the interim?

MR. M. FISHER: No, I wouldn't say that. But we did find this that there were at least three to four employees that we knew of for sure that must have signed in knowing they were going to be away from our employment, one of them had already given their notice in and two others were giving their notice in the following week, but they got in on the certification.

MR. MACDONALD: Well, my point is simply this, that it seems to me that if you take a vote at a certain time when the cards have been signed that you can't operate on any other basis, that that is going to be your bargaining unit when you come to negotiation and so on, otherwise an employer is left in the position, particularly if they are a small group of

employees, just to fire sufficient of them that in effect he destroys the union that was there.

MR. M. FISHER: Well, you could get proof that there wasn't any firing done whatsoever.

THE CHAIRMAN: You had received notice from these men of their intention.

MR. M. FISHER: From these men, yes. . . that at various times they were going to change their employment. We didn't take no action at all to fire anyone

MR. MACDONALD: Well, what is the validity of the argument that, if under the normal processes laid down in the law a union becomes certified, that that becomes the union then that is going to bargain.

MR. M. FISHER: Well, what part could the employees who have left the company -- what part could they play in a bargaining group after they have been away from the company for, say, two months or so, when you get into the bargaining?

MR. MACDONALD: I agree, they couldn't play any part. They are out.

MR. M. FISHER: But, their vote still stands as carrying a majority, doesn't it?

MR. MACDONALD: That's true.

THE CHAIRMAN: Even though they had already given their notice before the vote of their intention to leave the Fisher's Bread.

MR. MACDONALD: They had given their notice before?

MR. M. FISHER: Well, right within a day or two of that date.

MR. MACDONALD: My point is simply that you can't operate the procedures of certifying a union and then going on to bargaining by any other basis that you take the employees at that point and you vote and you've got certification.

MR. M. FISHER: But, could you explain to me how these people that leave the employ of Fisher's Bread could take any part in the vote?

MR. MACDONALD: They can't. How long had these people who left employment been with you?

MR. M. FISHER: How long had they been with us?

MR. MACDONALD: Yes.

MR. M. FISHER: Oh, some a matter of just a few months. One particular one, I think he was there about a year and then went into a service station business.

MR. W. FISHER: And one or two of them hadn't been there any more than a month.

MR. M. FISHER: Yes, that's right.

MR. W. FISHER: Because everybody knows that in times of good employment, and it is still good then, the labour turn-over has been just a little bit too brisk, hasn't it?

MR. MACDONALD: Well, in other words, there has been a significant turn-over in your labour force and this is a . . .

MR. M. FISHER: And this is not unusual as far as a bakery is concerned either.

MR. MACDONALD: Well now I am back to the point I am making --the contention in your personal reaction is that you should have the privilege. . . that if sufficient change takes place in your bargaining unit that you, in effect, can then wreck your certification and never have to go ahead and sign an agreement, and you've indicated rather clearly that you don't want to do that.

MR. W. FISHER: Our implication is that the fact that there's a meeting here this morning establishes that no laws or regulations have ever been devised by any man or group of men yet that wouldn't at times be

capable of improvement. Now, don't think that we imagine here that we can revise those laws. That's why I say we've come here with the story to you people.

MR. MACDONALD: Well, what specific improvement are you suggesting on this business of certification and the men involved in it.

MR. W. FISHER: Well, I found this. . . I found that salesmen themselves -- and you probably hear the salesmen talk more than the rest because they are always better talkers -- I have heard salesmen say --- Do you mean to say that the group of us that are working here now are to be bound by the decisions that were made by people who after being employed here for a month or two months, signed the union card. . . Now, don't think that I am saying this I don't know what the regulations are, I know what he's referring to, I am doing -- it is possible that the labour regulations need to be overhauled a bit, and if I knew exactly how I suppose I would be running for parliament, but I don't know how. . .

MR. WARDROPE: I was wondering, Mr. Chairman, what Mr. Fisher's reaction would be to this. . . when union and management receive certification, both management and union should be bound by the clauses of that certification usually agreed to. . . now, if either party breaks any of these clauses following certification this would be considered to constitute a breach of the contract and the contract. . .

MR. W. FISHER: There isn't any contract.

MR. WARDROPE: . . . should be considered cancelled. Well, . . there isn't any contract at that stage. I am referring to wild cat strikes. Apparently this borders on that. If there was no contract, of course it's a different thing.

MR. MACDONALD: Was your attitude toward negotiation with the union just as tough before these strikes as it is now?

MR. M. FISHER: Oh, no, no. I opened my negotiations in

St. Catharines, as Martin will quite well remember, quite favourable and I told the teamsters' union that if they were reasonable people to deal with and would show us any improvement on our labour relations in assuming part of the responsibility, we'd be glad to deal with them. And, as long as we found them just men we'd be dealing with them as just men. But, just as soon as I found out differently naturally my attitude would look for trouble. And we found plenty of it.

MR. WALSH: How long has this Fisher's Bread. . .

how long have you been in business?

MR. M. FISHER: Approximately thirty-five years, my brother and I. . . first it was a partnership and then as a limited company.

MR. MYERS: Doing business with all these places for

. . .

MR. M. FISHER: Oh, yes, I seem to get along, and it's more than that, we also feel that we could boast of having probably as many employees with us on a percentage basis that have given us long years of service as any other company in our category.

MR. MYERS: Mr. Fisher, what is the condition at your plant today? Are there picketers?

MR. M. FISHER: There are.

MR. MYERS: How many?

MR. M. FISHER: Oh, about three or four that picket us regularly. And, if you call people picketers who loaf in cars -- they're not on their feet very long.

MR. MYERS: And are the people who are picketing employees of yours today?

MR. M. FISHER: Four.

MR. MYERS: Four are employees?

MR. M. FISHER: Three to be exact. One is away once in

awhile.

MR. MYERS: Is there any stranger doing picketing now?

MR. W. FISHER: One fellow appears regularly every day and takes his turn picketing who was employed by Fisher's. . .

MR. MYERS: But the picketing is because you refused to enter into an agreement with what. . . the production people involved?

MR. W. FISHER: They don't say whether it's the production people or the salesmen. Anyway, it's because we have not signed. . .

MR. MYERS: Well, who were out on strike. . . the salesmen or the production people?

MR. W. FISHER: The production people. The salesmen are not on strike. . . no salesmen have been. . .

MR. MYERS: Aren't you afraid of your trucks going to Kitchener now? This morning, say? Did your truck. . . aren't you afraid of it being waylaid?

MR. M. FISHER: No. No, I didn't think that they could take the law in their own hands to that extent.

MR. MYERS: But they did on Saturday.

MR. M. FISHER: They did on Saturday, yes.

MR. MYERS: Well, why wouldn't they do it other days?

MR. M. FISHER: Well, these outsiders who are truck drivers, are usually a little busier during the week.

MR. MYERS: Do you get police protection now?

MR. M. FISHER: Oh, yes.

MR. MYERS: Oh, have you. What kind of police protection?

MR. M. FISHER: Provincial have been following our trucks from the outskirts of Galt to Hamilton, I believe.

MR. MYERS: And, did they do that this morning?

MR. M. FISHER: I think so, yes.

MR. MYERS: And how did you get your truck to the outskirts of Galt?

MR. M. FISHER: Well, the local police have followed these Hamilton trucks which pull out early in the morning, say, five o'clock. . .

MR. MYERS: You are still operating under police protection?

MR. M. FISHER: Yes, today they are all making their calls just as usual.

MR. MYERS: Is any attempt made to stop deliveries of supplies to your bakery, except the moral persuasion that would be established by picket lines.

MR. M. FISHER: Mostly moral, yes.

MR. MYERS: But no physical catastrophes?

MR. M. FISHER: No, I haven't run into anything serious, have we?

MR. W. FISHER: No.

MR. MYERS: No. At no time?

MR. YAREMKO: Mr. Fisher, the act of picketing by the three or four employees is not at the present time illegal. They are out on what is known as not an illegal strike at the present time.

MR. MACDONALD: Mr. Chairman, may I ask Mr. Fisher this . . . this advice from both the chairman of the conciliation board and the conciliation officer as far as I'm concerned I've never heard of this before. . . is it possible that this advice was given in the belief that these gentlemen, that you as management were just as tough operators as the union were and perhaps the quickest way to solve this was to get some sort of an agreement?

MR. M. FISHER: No, not being in a position to being able to . . . being a new experience. . . I couldn't tell you what their reasons were. I couldn't tell you why Mr. McGowan would inform me continually during

negotiations that we were dealing with the teamsters' union which is known to be a tough union other than it should develop fear.

MR. MACDONALD: Well, the point that I am making is that I think that it is not only a strange but it's an indefensible proposition that the chairman of a conciliation board should use as an argument to try to get a settlement -- that you'd better settle otherwise there is going to be violence. I mean, this is an invitation to violence. My feeling is simply this that if they did use this kind of argument, and to my knowledge it's unique, and I trust it will remain unique, there must have been some pretty definite extenuating circumstances that would provoke them into making this kind of a comment.

MR. WALSH: But, they've heard about the truckers. . .

MR. MACDONALD: Mr. Chairman, I will say this to Mr. Walsh, that if they heard about the truckers and violence there is an answer to that . . . you use the normal processes of the law and the chairman of the conciliation board and the conciliation officer doesn't use that kind of a situation to give advice which I suggest is indefensible.

MR. W. FISHER: To use the normal processes of the law when you can obtain evidence, and I mentioned it in the Brief that that is one of the most baffling things because of the methods that unions will resort to.

MR. WREN: Mr. Chairman, I suggest, with all due respect to you, sir, that the conciliation officer concerned here and the chairman of this conciliation board should be brought before this committee to explain why they offer such advice. We should hear their side of the story.

MR. MACDONALD: Are we going to hear, for example, from the union since we've heard from one side in this?

THE CHAIRMAN: Well, if these allegations are correct. I have no reason to doubt them. I presume that this union which is already

under investigation by Royal Commission, that probably this matter should be referred to them.

MR. W. FISHER: Mr. McGowan told us after a meeting at which he had reason to be in the company of Mr. W.R. Henderson, I believe it was maybe in the vicinity of Owen Sound, after coming back said, I was talking to Henderson and he said -- "Look, you tell Fisher that he can't stay in business unless he will do business with me. He can't stay in business unless he'll do business with me." Now, of course, what are the implications of that, well I don't know, but we're beginning to know what they are.

MR. MYERS: That was Henderson of the teamsters' union. . . in the presence of someone else?

THE CHAIRMAN: Henderson told this to McGowan, is that it?

MR. W. FISHER: Mr. McGowan, our counsellor, an industrial relations counsellors, told me that.

MR. MYERS: He told you that Henderson had spoken to your solicitor.

THE CHAIRMAN: His counselor in industrial relations.

MR. W. FISHER: He said he had a conversation with Mr. Henderson when they were doing some negotiating, I think it was in the vicinity of Owen Sound and he said, Henderson said, "You tell Fisher that he can't stay in business unless he'll do business with me."

MR. MACDONALD: Well, Mr. Chairman, I suggest that either we, this Committee, hear all sides of this story or alternatively that we refer it to the Royal Commission. As a matter of fact. . .

THE CHAIRMAN: Just a moment. . . I think, Mr. MacDonald, and I am going to make this suggestion, that the Secretary invite Mr. McLaughlin who was the chairman of the board, and Mr. McGuire who was the conciliation officer, to appear before this committee on Wednesday, May 14th,

on which day I notice from the Agenda we only have one Brief being presented to us by the United Association of the Plumbing and Pipe Fitting Industry, at ten thirty in the morning.

MR. MACDONALD: Can we, at the same time, Mr. Chairman, have copies of the conciliation board's report that was submitted?

THE CHAIRMAN: Can you?

MR. MACDONALD: Yes. There was a conciliation board's report, wasn't there?

MR. W. FISHER: Yes. You should get it from them because I don't think we have any more than one copy in our files.

THE CHAIRMAN: We will ask Mr. Metzler to let us have a copy of that conciliation board report dealing with the Fisher's Bakery.

MR. WALSH: May I ask, in view of your ruling, Mr. Chairman, that they just state again, as far as their recollection goes, the exact words of that conciliation officer, because we want to ask him did he say that. We would have it in black and white. It's like cures, it sickens and saddens, but it's not the same thing as what they say. What did this conciliation officer that the Chairman referred to, what did he say to you about the. . . .

MR. W. FISHER: It is going to be quite difficult to remember the exact words. There were the three of us there. . . we were all present and we were all of the same opinion that the wording meant exactly the same thing.

MR. WALSH: Well, what was the substance, the language he used-if you don't remember the exact words-what was the substance?

MR. W. FISHER: Well, I could give you more exactly the words of Mr. McLaughlin because they were more recent, but if a man comes in here and says -- Look, I didn't say that -- I'm afraid I won't turn red in the face because I am no expert in remembering the exact words a man said. . .

but he said -- I don't blame you fellows for being angry. He said -- I know you're mad. He said---but, these fellows are tough. He said---you'll have trouble if you don't sign a contract with them.

MR. WALSH: How many of your group heard that?

MR. W. FISHER: The three of us.

THE CHAIRMAN: But, he didn't say to you to sign a contract? He just said you'd have trouble if you don't sign a contract.

MR. W. FISHER: Yes.

MR. MACDONALD: But, he advised them to sign the contract to avoid any trouble. The wording in the Brief is -- "the chairman urged our company to sign the contract using as one of his most forceful arguments the tendency of this particular union to resort to violence.

MR. WREN: What did the conciliation officer say?

MR. M. FISHER: McGuire? He used a very similar statement in our office in Galt, didn't he?

MR. W. FISHER: I didn't. . . I couldn't. . . I wouldn't attempt to quote him at all, but I know that the meeting was there. . .

MR. M. FISHER: We all are of the same opinion, the three of us, who were at the meeting.

MR. WREN: And after he had talked with you you gathered that the best advice he had given you was that you'd better sign and save yourself trouble.

MR. M. FISHER: Yes.

THE CHAIRMAN: We have requested the Secretary to have these men attend and would it cause you three gentlemen too much inconvenience to be here at the same time next Wednesday.

MR. M. FISHER: I think we could make it next Wednesday.

THE CHAIRMAN: I think it would be better if you were here, so that we could clear this matter up.

MR. M. FISHER: At the same hour. . . ten thirty?

THE CHAIRMAN: Ten thirty. And I don't know that you'll go on first, we have one listed, but as soon as they're finished why. . . Thank you very much Mr. Fisher, and we'll hear from you again next Wednesday.

* * *



ONTARIO
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OFFICIAL REPORTER

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DATE **May 7, 1958**

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
May 7th, 1958.

MORNING SESSION

JAMES A. MALONEY

Chairman

HAROLD PERKINS

Secretary

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Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

MR. J. R. WILDE
MR. J. GRIMSHAW
DR. J. W. B. SISAM

PRESENTATION:

A BRIEF BY THE ONTARIO PROFESSIONAL FORESTERS ASSOCIATION

APPEARANCES:

MR. G. H. HICKIN
MR. W. BAGLEY
MR. R. WARNICK

PRESENTATION:

A REPRESENTATION BY THE BARBERS' INTERNATIONAL UNION (No Brief)

ONTARIO PROFESSIONAL FORESTERS ASSOCIATION

THE CHAIRMAN: Gentlemen, I see a quorum. This morning we have our first submission from the Ontario Professional Foresters Association represented by Dr. J. W. B. Sisam, President, who will present the brief, Mr. C. J. R. Wilde, Secretary, Mr. J. Grimshaw.

MR. WREN: Before you proceed with this delegation, Mr. Chairman, might I read into the record a news dispatch out of Montreal bearing on what we were discussing yesterday on compulsory arbitration and seek to have our Counsel get an opinion on it. It has to do with the province legislating for compulsory arbitration.

THE CHAIRMAN: Yes, I suppose.

MR. WREN: It is a dispatch from The Canadian Press -- Quebec -- May 6th. It says: "Lawyer hits crime parts of labour code. A Montreal lawyer who specializes in labour problems said today, two sections of Quebec's labour code are unconstitutional. Guy M. Deslauriers told an industrial relations congress sponsored by Laval University that Articles IV and VII of the public services and employees disputes Act are ultra vires beyond the power of the provincial government. Article IV stipulates that "every dispute respecting conditions of employment between a public service and its employees" but be submitted to arbitration and that the arbitration awards will be binding for a period of more than one year. Article VII imposes stiff fines against any person declaring or instigating a strike or lock-out contrary to the provisions of this Act. Mr. Deslauriers argued that the British North America Act while permitting provinces to impose penalties against law breakers does not permit provinces to create a crime, and in Articles IV and VII crimes were created, he said. The B. N. A. act was quite general in its clause dealing with the power of the provinces to punish and for such provincial law to be valid there would have to be a specific reference to the B. N. A. Act."

THE CHAIRMAN: Is that a statement he made after a decision of the courts, or is that his opinion?

MR. WREN: That's his opinion.

MR. MACDONALD: Who did that?

MR. MALONEY: Mr. Deslauries, a lawyer in the Province of

Quebec.

MR. WREN: But, inasmuch as we are considering legislation along that line it might be well to have our Counsel investigate that. . . to see if there is any validity to it.

THE CHAIRMAN: Well, I presume the only way we'll get any decision on it is if somebody challenges the law in the Province of Quebec.

MR. WREN: He's making a general statement. . . the provinces have no right.

THE CHAIRMAN: All right, Mr. Sisam, would you be kind enough?

DR. SISAM: Mr. Chairman and gentlemen, I apologize first to the Committee in that the presentation of the Ontario Professional Foresters Association is not in the form of a brief, but rather it is in the form of a letter from myself to Mr. Maloney, then a letter to Mr. Perkins setting out answers to certain questions he had raised. I enquired as to the official information that might be required in a brief and Mr. Perkins very kindly had the two letters mimeographed at that time, so we considered that that was adequate at this time for the purposes of the brief.

(DR. SISAM READ BRIEF TO END OF LETTER)

DR. SISAM: Mr. Chairman, I would just like to add that other reasons for this petition are to provide for the O.P.F.A., being the body to represent the Professional Foresters Association solely in the Province of Ontario and also to add to the professional status, you might say, of the group, as that is one of the objectives of setting up the Association. It was thought that in doing this, making this petition, and if possible bringing about this amendment to the Act, that would be accomplished.

Referring to the questions and answers. . . a letter from Mr. Perkins to me on February 28th, and my reply to him of March 12th.

First question: How many persons are now registered as members of this Association?

In my reply I said: The registered Professional Foresters, as of March 6th, 1958, there are 365 persons registered as members of the Ontario Professional Foresters Association. This Association . . . etc. . . etc. . . (contained as Pages 2 and 3 of Brief).

(DR. SISAM COMPLETED READING OF BRIEF)

. . . at that time of these examinations."

DR. SISAM: That actually hasn't been completed yet because it isn't a period long enough to be made possible to complete this work of the Board of Examiners. I should amplify that by saying that in addition to those at present being registered on the basis of a university degree, we are also registering a number of applicants who are qualified under the Grandfather Clause of the Act, that is, on the basis of long-term experience in forestry.

MR. MACDONALD: Grandfather clause?

DR. SISAMS: That's what I think it's usually called, isn't it?

MR. WARDROPE: That was one of the controversial things when I sponsored the Bill, do you remember, is the taking in of those boys, and the Association agreed to take them in due to their practical experience and now this examination will qualify them to be professional foresters.

DR. SISAM: I think the first three years, those who have certain kinds of experience over a period of time are taken in automatically without any examinations. And, at the meeting you refer to of the Committee, the period was increased from two to three years.

Number Six. . . Have you received any information that any of your members are now members of a trade union or have been compelled by a collective agreement to become members of a trade union?

I have information that one of our members, Mr. Gillespie, who is also a member of the Ontario Hydro Employees' Union of the National Union of Public Service Employees, C. L. C., membership in this union is one of the conditions of his position in the Ontario Hydro Commission. That is the only case that I have to report, and I have been in correspondence with Mr. Gillespie. I know of nobody else in the profession who is obliged to be a member of a union.

MR. MYERS: I would like to ask a question which arises out of a presentation made to us yesterday by a group of Hydro engineers that wanted to be included that are not now included.

DR. SISAM: Who wish to be included. . . ?

MR. MYERS: Who wanted to be included in the Act so they

could enter into collective bargaining . . . they wanted to be included although they are professional engineers.

DR. SISAM: Oh, yes. I attended that session for a short time yesterday morning.

MR. MYERS: Now, then, you mentioned one forester who is with Hydro. . . do you know whether he wishes to remain a member of the union or whether he would retire?

DR. SISAM: He would probably retire. He hasn't made up his mind. I have asked him that question and he isn't sure in his own mind. He certainly isn't definite.

MR. MYERS: Now, then, are foresters who are in employment of pulp companies executives who exercise administrative functions, or are they engaged in giving technical advice to the raising of trees. . . do they have power to hire and fire. . . or, are they both?

DR. SISAM: They're both. They start, of course, in one of two categories in the pulp and paper company. . . they are either going into the logging end of it wherein they are concerned with laying out roads and of operations and of supervising cutting operations from year to year and making plans therefor, and the other more or less parallel development is in management where they have to obtain information on all aspects of the forests and survey and obtain that information, prepare management plans or working plans and recognize the requirements of the Department of Lands and Forests, and the two of them really have to work together. . . one in effect is a logging engineer who certainly has administrative responsibilities, the other has to be the Chief Forester of the company or, as I mentioned a few minutes ago, vice-president in charge of woodlands.

MR. MYERS: Are the people who are professional foresters pretty unanimous in their desire to be excluded from the operation of the Act?

DR. SISAM: I would say that they are. I should say that this is based on a unanimous opinion of the council of the Association and the unanimous opinion of the Annual Meeting. We have not actually sent a ballot to all members of the Association. That possibly should have been done but a vote was taken at the Annual Meeting which was unanimously in favour of this, and

the council which is representative of all parts of the province was unanimous in apply for a petition.

MR. MACDONALD: What is the basis for your reasoning in wanting to be excluded?

DR. SISAM: I suppose that primarily the two points I mentioned earlier. . . to increase the professional status or the status of the profession in the Province of Ontario in relation to other professions, and to establish the association whether in theory or in practice as the sole organization representing professional foresters in the Province of Ontario.

MR. MACDONALD: Well, for those foresters who are definitely in the employee rather than in the management category, that is, who do not exercise hiring and firing powers. . . do you feel that it is reducing their professional status by giving them the collective bargaining, or by including them in the Act?

DR. SISAM: As employees. . . ?

MR. MACDONALD: Those who are in the employee category rather than in the management category, and in the engineers yesterday, you remember, they made a definite distinction. As a matter of fact, that distinction is made now in the Labour Relations Act with regard to so-called foremen. If a foreman is, in effect, a straw-boss, he can be in the bargaining unit. . . if he is a man who exercises hiring and firing powers he cannot be in the bargaining unit. This has been going on for years.

DR. SISAM: In forestry they do a very. . . there is a very narrow gap between these two because people start in as graduates, straw-bosses, in that category to gain experience to go on into district superintendent or something of that sort, so that in many cases foresters going into private employment has an opportunity of reaching that stage fairly early in their career.

MR. MACDONALD: Well, quite apart from that, though, Dean Sisam, for the purposes of this question. . . suppose he is definitely, at this stage in the employee group, do you think it reduces his status to have him included in the union?

DR. SISAM: Yes, I do. For one primary reason that be-

cause the profession of forestry represents a relatively small group, and I think in order to develop the profession of the . . . the solidarity of this group that they should all come together rather than be dissipated in unions with people representing other interests.

MR. MACDONALD: Well, can't they come together in their association and still for purposes of. . . working conditions?

DR. SISAM: Well, at the present time I don't see that we can. We haven't any clause in our by-laws that makes it impossible for them to belong to a union, I agree to that, but it does seem to me that if they can be recognized as employees in this Act and can become members of unions, you're going to undermine the strength of your association, because some of them will be going into unions and some won't and you don't know who is actually representing the foresters of the province.

MR. MACDONALD: Do you anticipate that one of the functions of the Foresters Association is going to be to act on behalf of the foresters as far as salaries are concerned?

DR. SISAM: Not as far as the. . . salaries, but I would say it may not be direct, but it would certainly be indirectly. . . it would take up the function of the national body, the Canadian Institute of Forestry with regard to salary surveys and preparing reports on salaries for distribution to employers, at least to inform them and possibly recommend certain salary schedules for grades of employment in forestry that we consider adequate.

MR. MACDONALD: But it won't go beyond the collection of information and the suggested schedules?

DR. SISAM: No, it wouldn't go beyond that. . . I think if we were going to do that, even to that extent, we've got to be united and we've got to have a single force or professional body.

MR. MACDONALD: Well, I can see the one difference between your position and that of the A. P. E. O. yesterday is that you are a new organization. . .

DR. SISAM: And a relatively small group, and I can't imagine a group of foresters in one company, say, in Abitibi, uniting together as a bargaining group of foresters.

MR. MACDONALD: Suppose, for example, that. . . of course, your constitution doesn't go to the point of making it unethical if you are indulging in collective bargaining, and this was proposed to us yesterday. But, suppose, for example, the Civil Service Association, which has on many occasions reiterated its objective of becoming a genuine collective bargaining agency on behalf of civil servants rather than being in the position of sort of being given salary schedules, and if you don't like them you can present your views for revision at the next time. Suppose they did get to that position, would that in effect then rule out foresters being in the civil service Association?

DR. SISAM: Well, I don't think that the initial decision on that could be made by our relatively small group, because it affects so many professions and I think that all of the associations representing the medical group, the engineers, foresters and everybody would have to get together on that. I don't think the foresters could do it unilaterally.

MR. MYERS: Are there any employed graduates in forestry who are not members of your Association, do you know?

DR. SISAM: There are at the present time. As I say, we are increasing all the time. We have 400 and I think the probability of a total of 670 foresters in Ontario.

MR. MACDONALD: That's your potential?

DR. SISAM: At the present time, yes. But, I think quite probably in view of the developments that have taken place over the past ten or fifteen years that forestry is going to expand in Ontario and that there will be a . . . considerably more opportunities for employment than there have been in the past. . . you really just have to look over the developments that have taken place since the war in forestry and the employment of foresters to see the potential that is developing, and if you will take the reports made recently on population in this country and the natural resources in relation to that population increase, you can visualize what is going to happen if it is done properly.

MR. MACDONALD: Let me ask you a final question, if I may, Dean Sisam. . . is your proposal so unequivocal that you wouldn't entertain a permissive clause for any group that might at some point want to indulge in

collective bargaining. . . professional group. . . I am thinking generally, now, of which foresters would fall into the category?

DR. SISAM: Well, there is no permissive legislation at the present time.

MR. WARDROPE: Well, Dean, might I just interject something . . . Mr. Macdonald, this Association is less than a year old. . .

MR. MACDONALD: I realize that.

MR. WARDROPE: . . . and they really haven't. . . I think you've only had one meeting, sir, haven't you?

DR. SISAM: We have had two. . . we had an inaugural meeting and the first Annual Meeting.

MR. WARDROPE: So, these questions are really. . .

DR. SISAM: There is no permissive legislation now. . . it seems to me that's, again, a question that we would have to take some council with other professions in before we could, as a small new group. . .

MR. MACDONALD: Well, the reason for my question is, you heard yesterday, a group of engineers. . .

DR. SISAM: I unfortunately could not stay to the end of that, and I don't know. . .

MR. MACDONALD: . . . yes, and their plea was, in their particular instance, that they had collective bargaining rights as a result of PC-1003 following the war for a ten year period, 1948 until 1957, so it isn't a case of giving them a right, it's a fact that they had a right which has now been taken away. . . now, my question is, with regard to the general professional category which foresters are now coming into. . . would you object to a permissive clause that if a group of professional people want to join. . . and they made this very clear. . . their own bargaining unit, not get emerged in another union, but their own bargaining unit for genuine collective bargaining procedure. . . would you object to that?

DR. SISAM: I wouldn't like to answer that question without giving thought to it because I haven't really done any thinking along that line at all.

THE CHAIRMAN: Any further questions?

MR. MORNINGSTAR: Mr. Chairman, out of 650 members 400 belong to your Association, is that right?

DR. SISAM: That's right.

THE CHAIRMAN: Anything further, gentlemen? Thank you very much, Dean Sisam, and I can assure you that your brief will receive our consideration when we make our report.

DR. SISAM: Thank you very much.

REPORTER'S NOTE: The next delegation heard at this point was the Fisher's Bread Limited, of Galt. This portion of the presentation was transcribed at the order of Mr. Perkins for use as reference when the Fisher people were recalled to the witness table to respond to questions arising from their testimony of this time. The transcript is identified as "Special" Volume. . . Pages 1 to 19. The resumed hearing was on Wednesday, May 14th, and this material will be incorporated as part of the regular transcript in its position.)

SUBMISSION BY THE BARBERS' INTERNATIONAL UNION

THE CHAIRMAN: Gentlemen, the brief we are about to hear is a verbal presentation, a brief has not been presented to us, from the Barbers' International Union, and the organization is being represented by Mr. G. H. Hickin who will present the submission, Mr. W. Bagley and Mr. R. Warnick. Will you kindly proceed, Mr. Hickin?

MR. HICKIN: As has been said, these presentations were drafted on rather short notice. Our Number One requirement, or our Number One problem seems to be that of certification. We . . . as provided under the Labour Relations Act. . . can be certified in shops where there are two or more employees. However, in our industry, the vast majority of shops are one and two chair establishments. We venture to say, after careful consideration, that two chair shops make up at least fifty per cent of the barbering trade in Ontario and we would, if possible, like to be able to have certification for one employee in those instances. Only in that way will we ever be able to get a majority of barbers in any given jurisdiction, or any given zone, as a bargaining group. At the present time only about twenty per cent, or perhaps twenty-five per cent of the barber shops would qualify for certification so that we can get bargaining rights for our employees for there is only about that many shops in Ontario with two or more employees.

The second proposition we have is that we be allowed to be certified or automatically be certified for all barbers, all employee barbers in any jurisdiction where we have a local set up, and since we are the only genuine barbers' union in the field. There isn't any other barbers' union operating in Canada anywhere. Either that or that we be allowed automatic certification for all employee barbers in any jurisdiction after we have gained fifty-five per cent of the employee barbers as members of our organization. . . either one or the other.

MR. MACDONALD: Is that in a certain region or zone?

MR. HICKIN: In a zone or an area. . . a jurisdiction as I referred to it here, such as we refer to our jurisdiction in the Toronto area as Metropolitan Toronto. Now, one of the reasons, or the main reason for our

request for automatic certification is this. . . in the present set up we cannot seem to get proper control of enough people to make a difference in the trade. We have. . . our established standards are being broken daily. The hours are being violated. We have drastic price competition. We have weekend barbering. We have bootleg barbers. And, one of our main problems is immigration. We have people coming from Europe, particularly from Italy, and it would appear that every third one of them appears to be a barber and he either works full time at the trade or he works somewhere else and works at the trade of barbering on weekends or he has a little black bag with his tools in it that he carries around from house to house after he gets home from work in the evenings. It's creating hardship for the barbers who have, all their lives, depended on the trade for a living. . . it's only in the last few years that the immigration has been so wide open that we've had this problem so seriously. We realize that this Committee has no control over immigration, but we would like to have automatic certification so that we, ourselves, can control our trade in the best interests of the majority of the barbers involved.

Now, our next one is we would like a provision in the Labour Relations Act which would provide against any other branch of the labour department from usurping our bargaining rights. Now, to explain what I mean. . . we have a number of working agreements registered now with the Ontario Labour Department. We're certified as bargaining agents, we negotiated and in some cases we resorted to conciliation, we have signed contracts and signed agreements with employer barbers for employee barbers in the City of Toronto here. In some of these agreements we had to fight tooth and nail to get an establishment sixty-six and two-thirds per cent commission rate for employee barbers. Now, within the last month, the Industrial Standards Board has issued a schedule for barbers in the Toronto Metropolitan area which provides for seventy per cent, which means that our agreements which we fought so hard for in the past year or so are worthless. We have been able to get sixty-six and two-thirds per cent, and in some cases sixty-eight per cent, in some cases we have been able to get seventy per cent established for our members. However, anything that we have is less than seventy per cent is worthless inasmuch as the Industrial Standards Act, which is intended as a minimum wage Act, has

established a minimum which in actual fact is a maximum and we are left then with no bargaining area. We have nothing to offer the barbers insofar as commission rate is concerned.

MR. MACDONALD: What does that mean? Does that mean that the owner of the shop gets the . . . has to pay a minimum of seventy?

MR. HICKIN: Yes.

MR. MYERS: Seventy cents.

MR. HICKIN: Seventy cents on the dollar, sir, or seventy per cent. The barbers are paid mainly, I think ninety-nine percent of the time on a commission rate. For each haircut they do they get a percentage which is usually. . . well it has now, it has been established that it must be seventy per cent. The employer barber then has thirty per cent with which to pay his overhead.

THE CHAIRMAN: Well, isn't that higher than sixty-six and two-thirds per cent?

MR. HICKIN: I would say it is, yes. But, there is a problem there that I would like to make clear, if I may. We have been, since the first of 1957, we have been trying to organize barbers and work through the Ontario Labour Relations Board. We have, as I said, been certified in a number of instances and we have signed contracts in a number of incidences. We have been able to administer these agreements and police the terms that are in the agreements. We make sure that the employees are getting the standards that are set down in the agreements, that they are working the hours that are set in the agreements, and if they are working on a price rate which is consistent with the agreements. However, we haven't got too far with it. We had managed to get perhaps twenty-two per cent of our ultimate aim, which is one hundred per cent, when this took place, this new Industrial Standards schedule was put into force. Now, we cannot organize further on the basis of being able to offer our members higher commission rates because we cannot offer them higher than seventy per cent. And, the majority of employer barbers in Toronto will, I think, agree that seventy per cent is too high to be set as a minimum. I have two employer barbers with me now and both agree that seventy per cent is too high because, in addition to the seventy per cent, they are required, under

other legislation to pay two per cent holiday pay. Then there's the Unemployment Insurance problems, and so on. Now, seventy per cent was our ultimate aim. I'll grant you that the union was actually was working for seventy per cent, but only after we were in a better position. . . only after we were able to police the effects of our progress, after we had eliminated most of the price cutting. And there has been a levelling off of prices at a reasonable level with the greatest degree of uniformity that we could obtain. Then we would have established the seventy per cent. But, at the present time haircuts are ranging within the Metropolitan area specifically of between fifty cents and a dollar twenty-five which is quite a rise stretch

MR. WARDROPE: Mr. Hickin, you are just speaking for the Toronto barbers, aren't you? Because I know in our town. . . I come from Port Arthur. . . they're all organized there. I was at their meeting this Spring and they are in the international associations with the Americans, and they are apparently pretty well satisfied. One point that they brought up, that the barbers were different from the ordinary unions because the big majority of them are employers. You see, in our town they are mostly all. . . they might have two chairs or three chairs. . . but you are speaking for your own organization in the east, are you?

MR. HICKIN: Mr. Wardrope, I come from Port Arthur, too.

MR. WARDROPE: Well, I know your brother very well, then. . .

MR. HICKIN: While I am speaking for the barbers in Toronto specifically at the present time, the same thing that has happened here could happen there. What I would like to do is lock the barn, even though the horse is gone in Toronto. . . we could lock the barn now before it goes elsewhere in the Province. That's what I am trying to do.

MR. WARDROPE: I think there are only two there who aren't in the union, and they are old fellows. They don't cut prices, so they just don't belong.

MR. MACDONALD: Does this Industrial Standards Act stipulate seventy per cent?

MR. HICKIN: Yes, sir.

MR. MACDONALD: Does this apply to all barbers, whether or not

there's a contract? Whether or not the men involved are in the union?

MR. HICKIN: Oh, yes, sir. It provides Class A employees seventy per cent of the proceeds from the work performed by him . . . for Class B employees seventy-five per cent. . . . and the Class C employees and part-time men who might be called in for three hours or one day, or something of that type. . .

MR. MORNINGSTAR: You mentioned a minimum based on the maximum. . . what did you mean by that? Have you established that?

MR. HICKIN: Well, the Industrial Standards Act, sir, was primarily, as I interpret it, as to have been a minimum wage Act. . . it was an emergency measure during the depression, I believe, to establish minimum wages for workers. . . barbers were by no means the first to come under it, but they did come in under it later, and now we find that as a minimum they have established seventy per cent which is, for all practical purposes, a maximum.

THE CHAIRMAN: You say in here that seventy per cent is too high.

MR. HICKIN: It is a maximum. In all fairness to employers . . . mind you we must protect our people, we must have jobs for them.

THE CHAIRMAN: We haven't had any kick from the employers.

MR. HICKIN: I am not representing the employers, sir, I am representing the employees. Trying to keep jobs for our members.

MR. WREN: Does the Industrial Standards Act also set the price of the haircuts?

MR. HICKIN: They fix the minimum price, sir. . . at sixty cents. This has just come into practice just recently. . . some of the shops in the city still haven't established the sixty cents. . . they are still working on fifty cents, which was the old minimum.

MR. WARDROPE: That will be what the employee gets?

MR. HICKIN: No, sixty cents is what you pay as the price of the haircut.

MR. MORNINGSTAR: Sixty cents the price of a haircut?

MR. WARNICK: That is one of the inconsistencies of this schedule and the reason it is doing us such a great deal of harm. If, instead,

they had concentrated on price and raised prices and left the wages in our field entirely we'd have been much happier.

MR. MORNINGSTAR: How long has that been in operation, that minimum like sixty cents. . . how long is that established?

MR. WARNICK: About three weeks, sir.

MR. MORNINGSTAR: Three weeks. . . I mean that legislation. . . how long has that been. . .

MR. WARNICK: Oh. About 1937 it began. . . and we have been getting this. . . it started at thirty-five cents. . . forty cents. . . forty-five cents. . . fifty cents. . .

MR. MYERS: Did you appear before the Board when the minimum price was set?

MR. WARNICK: Yes, sir.

MR. MYERS: I mean, did you agree to it before the Board?

MR. WARNICK: No, sir. We made very drastic representation. We even went as far as Premier Frost with our representation to try to avoid the establishment of seventy percent as the minimum rate in this schedule. We made every approach possible. . . I have here a copy of our. . .

MR. MYERS: I meant the sixty cent haircut. . . were you represented when that price was fixed?

MR. WARNICK: Oh, we weren't concerned with the sixty cent haircut, sir.

MR. MYERS: I thought there was a sixty cent haircut in Toronto.

MR. WARNICK: There are. . . there are sixty cents and fifty cents.

MR. MYERS: But sixty cents is the minimum set by the Department of Labour, is it?

MR. WARNICK: Yes, sir.

MR. MYERS: Did you have anything to say to the fixing of the sixty cents?

MR. WARNICK: Yes, sir. We said it was worthless.

MR. MYERS: What?

MR. WARNICK: Yes, sir. We said it was worthless. Labour Minister Daley advised us as much as three years ago that he would establish an increase in the price of haircuts for us from fifty cents to sixty cents, but he would, under no circumstances raise it beyond sixty cents. We agreed at the time that it was worthless.

MR. WARDROPE: We must have . . . because our price all over is a dollar and a quarter. . .

MR. WARNICK: I know, sir. I have your price card.

MR. WARDROPE: That's what we pay. . . that's it! You can't get a haircut any cheaper than that. I don't know how they work, they. . .

MR. WARNICK: Well, that's just uniformity of prices and that's what we're striving for. Mind you, we are not trying to get higher prices everywhere. We had an educational program which would encourage barbers to sell extra services, like face massages, shampoos and that type of thing, something that has sort of died out of the barber shop, instead of raising their prices. . . if they would sell these extra services and keep themselves busy there would be no necessity to be continually raising prices all the time.

MR. MYERS: Have you any record of the average earnings of barbers in this area?

MR. WARNICK: No. Our agreements provide for a minimum of \$50.00 a week. . .

MR. MYERS: But how much does a barber, an average barber in the Toronto area take. . .

MR. WARNICK: It depends on how many people go to him. It is a pretty difficult thing to say, sir. . . since prices range from fifty cents to a dollar and a quarter and commission rates, heretofor, have ranged from. . .

MR. MYERS: How much a month does he make, that's the point. I was wondering how a barber's income would compare with a bricklayer's income, or somebody else's income? You have no idea?

MR. WARNICK: Well, I would venture to say it would be about a quarter to one-third the bricklayer's income.

MR. MACDONALD: The rate would be what, then?

MR. WARNICK: In Toronto. Mind you, I am talking about

Toronto.

MR. MACDONALD: Well, what's it in Toronto?

MR. WARDROPE: Tell me one thing. . . here is something that interests me. . . I go to Roy England's barber shop and he's got a fellow working for him. . . what does that fellow get out of the dollar and a quarter?

MR. WARNICK: He'd get fifty cents of a dollar. . . of a dollar and a quarter he'd get fifty per cent of a dollar and a quarter. . . we haven't established seventy per cent in Port Arthur because we were in a position where we could control, administer and police. . .

MR. WARDROPE: I see.

MR. WARNICK: That's what we were hoping to do here.

MR. MACDONALD: Is your objection to fixing at seventy rather than at sixty-six and two-thirds that it removes a bargaining area for you in attempting to get greater organization in the union? Is that it?

MR. HICKIN: In a sense that is it, sir. Inasmuch as it has taken away now the possibility that we'll ever be in a position to establish a uniformity of prices, a uniformity of wages and so on for the people in Toronto.

MR. MYERS: How can we deal with it unless we know what you are getting now? Perhaps your income is five hundred dollars a month. How do I know? And, if it is, what is the matter with the present rate. . . perhaps you're only getting fifty dollars a month and in which case you should get a wage increase. . .

THE CHAIRMAN: Gentlemen, we are not dealing with the rates. This Committee is confined entirely to labour relations, not to the Industrial Standards Act. Mr. Hickin just brought it up incidentally to show that by establishing this rate it weakened his organizing capacity with the barbers, I presume. But, it is no concern of ours, the prices that are paid or the minimum wages. . . the minimum charges that are set. . . except in that sense. He feels that it is going to weaken the hand of the barbers' international in getting members or getting them to conform to a uniform price for a haircut or whatever they may offer. But, I rule that that has no concern. . . the Industrial Standards Act is no concern of this Committee.

MR. MACDONALD: Well, Mr. Chairman, may I ask. . . I mean,

just as an outsider, the difference of three and a third per cent doesn't strike one as being sufficient bargaining area to make all that difference.

MR. HICKIN: Well, Mr. MacDonald, our protest in the past has been that the minimum in this schedule, the minimum commission rate has been set too high all along, that they are usurping our bargaining area, that the minimum wage should be set in this, perhaps, but not the minimum commission rate. . . you've got something to bargain with.

MR. MACDONALD: The net result is that, in effect, you don't get the trade organized and therefore you can't move on to the desired objective of some standards in terms of hours, and so on.

MR. HICKIN: And, in establishing this schedule the industry and labour board has established, as I said, maximums instead of minimums, in minimums legislation. However, they have only set up an advisory committee of five voluntary people to administer. . . there is no way of administering this Act or this schedule unless the people wish to leave their shops and visit every shop in the city and find out if the employees are receiving that rate. . . if those prices are being charged. . . if they are being charged for their laundry and things of that type. And, these people have their lives to live . . . they've got earnings to make. . . they can't leave their barber shops. . . they're barbers the same as we are. . .

MR. MACDONALD: How is the Act normally policed?

MR. HICKIN: It isn't policed, sir. That's the problem there. It is policed by barbers for the barbers. . . in theory. . .

MR. MACDONALD: What I mean is, you establish an Act that lays down certain regulations. . . you mean there is no effort on the part of those who administer the Standards Act to see that it's lived up to?

MR. HICKIN: No. If we receive evidence that someone is breaking this schedule we can appeal to the Industry-Labour Board. . .

MR. MACDONALD: In other words, they ask through you and you submit a case to them.

MR. HICKIN: Yes. They will send them a letter then of protest. In a second instance we must obtain evidence again, then they'll have them before the advisory committee. Now, on a third instance we may apply

for permission to prosecute.

MR. MACDONALD: That's what I wanted to get at.

MR. HICKIN: But it is very infrequent. But, all I propose here, gentlemen, is that we would like protection against that sort of thing happening elsewhere in Ontario. It has happened here in Toronto too soon. It has taken away from us the opportunity to establish what could be, much in the best interest of the barbers of Toronto, by putting us in a position where we can no longer organize effectively. We haven't anything to offer the employee barbers now. What we could do now, and mind you we haven't given up. . . we are not going to throw in the towel and just walk out of Toronto, or anything of that nature, but it makes it far more difficult than it was before.

MR. WARDROPE: Have you a permanent association here, Mr. Hickin, with paid organizers or anything of that kind?

MR. HICKIN: We have a permanent union here, local union here in Toronto. It isn't large enough to have any full-time paid men, but we have part-time paid people working.

MR. MACDONALD: This is the unique kind of situation that the establishment of a minimum standard wage, standard in the way of getting sufficient union organization in to be able to achieve the over all objective of desirable standards throughout the whole area.

MR. HICKIN: Yes, Mr. MacDonald. It puts us in a very awkward position. We're not opposed to the seventy per cent as seventy per cent, but we are opposed to it being established in a schedule when it is not effectively enforced.

MR. BAGLEY: Then, sometimes we have the problem of rented chairs and such like, and we have no control over that as it is at the present time. . . whereas, with bargaining, we would have more control over different little incidences of unfair competition.

MR. HICKIN: Yes, that is another problem that has come about because of this new schedule. . . the established commission rate is so high as a minimum that rather than pay that employer barbers find it convenient to say to their barbers -- well, I'll rent you that chair for fifteen dollars a week, or twenty dollars a week, or thirty dollars a week -- whatever they

feel it is worth, and it's a take it or leave it attitude, and if he wont work for it, then one of the immigrants will, or somebody else will. You have got an awful lot of people coming into this city. . . people from Europe who, as you know, seem to hit for the bigger cities. . . they seem to feel there is better security, or more security there. . . and, in any case, we find that the greatest number of people that come in here as barbers -- the greatest number of Italians that we come in contact with, of course, are barbers.

MR. WREN: Well, what are you doing about these fellows with the little black bags that you spoke about?

MR. HICKIN: That's the fellow we referred to as the boot-leg barber. There are ways of stopping him. We have local legislation established but we are still now battling with the Metropolitan Licensing Commission to enforce that state of this local by-law that we have.

MR. MACDONALD: We have ways of stopping people who peddle stuff on the streets without licensing. I mean, it is not much different.

THE CHAIRMAN: We don't have. . . the municipality does.

MR. MACDONALD: Well, I mean. . . Mr. Chairman, may I ask Mr. Metzler what was the reason for making this change?

MR. METZLER: Mr. Chairman, I must confess I am not wholly familiar with the Toronto barber situation. This would come to us as a routine request for a conference. . . I don't know whether there was a conference held in this particular case, or it may have come as a routine request for changes in an existing schedule. I have listened with a great deal of interest . . . or that would go direct to the Industry and Labour Board. . . they would process it and it would go up to the Minister because the Minister is the man who makes the final determination on whether or not he will grant a conference, and there is no delegation of that authority to anyone. That is his decision. So, I am not conversant with this last conference, but I would like to make one observation about the operation of the Industrial Standards schedule in respect to the barbering industry. . . I think Mr. Hickins and these other gentlemen will agree that it was the instrument that led this industry out of the wilderness of very very bad conditions and very bad times. The Industrial Standards Act was established about 1934 or '35 and one of the first trades that, or callings that

availed itself was the barbering industry. Now, I am sure that you gentlemen can remember when barber shops used to stay open from eight or nine in the morning until twelve midnight, and there were all sorts of prices being charged, and it was a highly competitive industry. Now, the thing that I think is very helpful to the industry is the fact that it gave them a floor and it gave them a limitation on their working hours and it gave them a requirement of a minimum price. . . the reason that the price is in is because of the fact that this industry, by practice, has usually paid its employees on the basis of a percentage. In order to get a percentage basis established you'd have to put in a minimum price. But, I am not conversant with the last conference that was held in respect of the Toronto barbers. But, another thing that I might mention in connection with it . . . you will notice that the hours were reduced, or the working week was reduced to five days. Now, originally in the city of Toronto Wednesday was the day off, and then it became apparent that in the downtown shops that it should be Saturday. So the advisory committee has given each shop its option of calling the day that it wants to close. . . once it calls it it can't change it, I don't think, for six months. But this. . . I think that these gentlemen will agree that the Industrial Standards Act has been a great benefit and a great assistance to their particular industry.

THE CHAIRMAN: Anything further, Mr. Hickin?

MR. HICKIN: No, only to say, sir, that the Industrial Standards Act, as Mr. Metzler says, has been a boon in the past, but it has got to the stage now where it's a threat instead of a boon. When they establish a maximum and refer to it as a minimum. . . it isn't the maximum that is the maximum this year and will be higher next year. . . this is a maximum for all times. . . it's a percentage maximum.

THE CHAIRMAN: Well, there would be nothing to prevent you from negotiating a contract with your employer whereby you would get seventy-five per cent. . . that wouldn't be against the law, would it?

MR. HICKIN: No, sir, it wouldn't be against the law. . . it would just be impossible. It would be impossible, sir.

THE CHAIRMAN: Well, the only objections, as I understand it, that you have is that rather than you people being allowed to negotiate it the

Industrial-Labour Board has established it before you have had a chance to negotiate ?

MR. HICKIN: Yes, sir. And, while there is nothing that can be done about that now. . . the schedule has been established for the Metropolitan Toronto area, what we would like you to do is to consider providing something in the Labour Relations Act which will provide against this sort of thing happening elsewhere in Ontario. . . that our written agreements, our signed agreements which are registered with the Labour Relations Board, should be considered before minimums are established in this schedule.

THE CHAIRMAN: Thank you very much, Mr. Hickin.

MR. HICKIN: Thank you, sir.

THE CHAIRMAN: The next presentation is to be made by the Ontario Municipal Electric Association. Where are they ?

MR. PERKINS: Mr. Chairman, this is a brief submission that is being made to the Committee for record purposes. There are no personal appearances.

THE CHAIRMAN: And we have it in the form of two letters. Would you see that it is read into the record, Mr. Perkins.

MR. PERKINS: It will be on the tape. Mr. Chairman, tomorrow we have the Federation of Labour coming back for the continuation of the Brief which was heard on October 1st, but not completed. I would like to point out, however, that there are no briefs available and I'd like you to bring your own with you tomorrow.

THE CHAIRMAN: The Ontario Federation of Labour. . . is that the only body to appear tomorrow ? We have heard from them already, haven't we.

MR. PERKINS: Yes, we got half way through their submission on October 1st.

THE CHAIRMAN: Gentlemen, I declare the meeting of this Committee adjourned until tomorrow morning at ten thirty.

ONTARIO MUNICIPAL ELECTRIC ASSOCIATION

Secretary-Treasurer D. P. Cliff
63 Main Street, Dundas, Ontario.
March 15th, 1958

Mr. H. Perkins, Secretary,
Select Committee on Labour Relations,
Parliament Buildings,
Toronto 5, Ontario.

Dear Mr. Perkins:

The following resolution was passed at the Annual Meeting of the Ontario Municipal Electric Association, held in the Royal York Hotel, Toronto, Ontario, on March 3rd - 5th, 1958:

"THAT as the Labour Relations Act affects Electrical Municipalities, the certification of a Bargaining Unit of Employees should be based on the result of a secret ballot and that such ballots be ordered only on a presentation of a sufficient number of membership cards."

Please be further advised that the above resolution was originally introduced at the Annual Meeting of District #5, O. M. E. A., held in Brantford on January 29th, 1958, where it also received endorsement.

It is respectfully requested that you place this resolution for the attention of your Select Committee on Labour Relations at the earliest convenient opportunity.

Yours very truly,
(Signed) D. P. Cliff, Secretary.

Dear Mr. Perkins:

This will acknowledge your letter of March 4th, with reference to a news item appearing in The Globe & Mail on the same date.

I presume the article referred to, had as its foundation the following resolution introduced at the Annual Meeting of the Ontario Municipal Electric Association, for discussion and action by the membership:

"THAT in the interests of public safety, all Hydro Public Utilities be declared essential industries, and that the Ontario Department of Labour be empowered, if requested by a Utility, to declare a no-strike or lock-out in the case of an unsettled Union Utility dispute, and further, that the no-strike or lock-out shall continue until a satisfactory settlement has been arranged through arbitration if necessary."

Please be advised that the members of our Association, consisting of elected and appointed Local Hydro Utility Commissioners from all across the Province, voted, almost unanimously, non-approval of the resolution.

It was the consensus of opinion that although Hydro is an essential operation and strikes arising within it could create definite hardship and hazard, nevertheless, the right to strike is a fundamental and constitutional right of our citizens and our Association should not take action which would interfere with those democratic rights.

Yours very truly,
(Signed) D. P. Cliff, Secretary.



ONTARIO
LEGISLATIVE ASSEMBLY,

THE PROCEEDINGS OF

THE SELECT COMMITTEE
ON
LABOUR RELATIONS

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DATE May 8, 1958

W. J. BINKLEY
90 BINSARTH ROAD
TORONTO 5

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1
Parliament Buildings
Queen's Park
Toronto, Ontario

THURSDAY,
May 8th, 1958

JAMES A. MALONEY

Chairman

HAROLD PERKINS

Secretary

GEORGE T. WALSH, Q. C.

Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

MR. CLEVE KIDD
MR. DAVID ARCHER
MR. I. M. DODDS
MR. DOUGLAS HAMILTON
MR. GORDON MILLING

PRESENTATION:

A BRIEF BY THE ONTARIO FEDERATION OF LABOUR

THE CHAIRMAN: Gentlemen, it is now ten thirty and I see a quorum. This morning we are to continue the presentation commenced by the Ontario Federation of Labour on the 1st of October, 1957. At the time the Federation was represented by David Archer, Executive Secretary, Douglas Hamilton, Secretary-Treasurer, Gordon Milling, Research Director, Ted Goldberg, Research Staff, United Steelworkers of America. . .

MR. KIDD: He is not here today.

THE CHAIRMAN: Who else is here?

MR. KIDD: I am here as president of the Federation. . .

THE CHAIRMAN: Your name, sir?

MR. KIDD: Kidd. . . Cleve Kidd, as the president of the Ontario Federation of Labour.

MR. HAMILTON: And we also have with us today I. M. Dodds, of the Teamsters, Mr. Punit, another vice-president, of the Rubber workers, and some others.

THE CHAIRMAN: Mr. Punit was here the last time, and William Boothroyd. . . is he here?

MR. HAMILTON: No, not here.

THE CHAIRMAN: Dick Courtney?. . . and George Barlow?

Gentlemen, at our adjournment we had gone up to Page 9 of your brief, I believe, that is Contents and Operation of Collective Agreements. I think you had presented the whole brief at that time and we were just questioning.

MR. HAMILTON: Well, Mr. Chairman and members of the Committee it is a matter of procedure now, I think, to proceed through the rest of the brief and answer any questions arising out of this, but we would like to go further than that, Mr. Chairman. . . we have a further brief to submit to the Board and it pretty well deals with some of the things which would arise out of unfair practice, and if the Board would, we would appreciate it if we could go through the rest of the brief and leave the unfair practices sections and then President Kidd would read the supplementary which we have to submit to the Board and then I think the questions would be answered by answering questions under unfair practices and our supplementary. If that procedure is satisfactory to the Committee, I think we are. . .

THE CHAIRMAN: Gentlemen, I suggest that that would be perfectly all right with me. All right.

MR. HAMILTON: We're prepared to answer any questions arising out of anything starting from Page 9.

THE CHAIRMAN: Well, now, gentlemen, I don't know whether you have refreshed your memory of what is contained in the balance of this brief, but in the usual manner I would ask if there are any questions arising out of arbitration and no-strike provisions Section 31, 32, and 49 sub-section 1 of the Act? Dealt with on Page 9 and 10 and 11.

MR. WREN: When you suggest in your submission that any occurrence which affects the earnings and working conditions of employees should be arbitrable, are you suggesting there that that should be made a subject of legislation or a subject for bargaining between yourselves and employers?

MR. HAMILTON: Well, at the moment, the things that are arbitrable under the Act are those things that are violations of in conflict with the collective agreement. Now, matters arise, sometimes unforeseeable matters arise during the life of the collective agreements, such as speed-ups, new operations, things that are not covered by the collective agreement, and we say that any of these things which have an impact on working conditions generally should then be the subject of arbitration whether they are covered by the collective agreement or not.

MR. WREN: Yes, but I mean, you suggest that should be subject for legislation to provide for it.

MR. HAMILTON: Well, it should be written into the legislation which is taking care of arbitration now. . . there is an arbitration clause. . . a mandatory arbitration clause now in legislation and we simply say that this should be broadened to take care of these other changes. I would just like to say that the meat of our recommendations are in a, b, c, and d, as set out in Page 9. . . that's the meat of our recommendations to the Committee.

MR. MACDONALD: This is the case of the American legislation, is it not?

MR. HAMILTON: There is no provision now. . . no confining in the American legislation now.

THE CHAIRMAN: And you say that the decision should be final and binding?

MR. HAMILTON: Yes. Of course, that's the problem. I think this Committee has heard so much of it that they now find find that the arbitrations we thought were binding are ending up in the courts. We feel that this is an impossible situation.

THE CHAIRMAN: That is, there should be no appeal from the decision of the arbitrator?

MR. HAMILTON: That's right.

THE CHAIRMAN: Anything further, gentlemen, on this part of the brief?

MR. MACDONALD: Well, at the bottom of Page 10, Mr. Chairman. . . I thought that there had been a general concensus building up in favour of the proposition of courses or schools or refresher courses, call them what you will, for getting more personnel. I was rather interested in Mr. Metzler a couple of days ago suggesting that he didn't think this would be too effective a procedure, that the only place you can learn to do the job of conciliation board chairmen is in actual experience.

THE CHAIRMAN: What I understood Mr. Metzler to mean was that the men who are doing this sort of work should be accompanied by other embryo arbitrators and conciliators in their hearings. . . get the actual experience in the field and that a refresher course during the summer months or some such time could be given in one of the universities.

MR. HAMILTON: Well, I think it is the same with any educational media, that you get your elementary or your basic education in the schools and you get your practical education on the job. . . I think the same thing applies in arbitration. . .

THE CHAIRMAN: I know in the legal profession now the students have to spend one year out of the law school altogether during their course.

MR. MACDONALD: The difficulty there is you are going to have judges, for example, are you going to hold a refresher course in industrial relations for judges before you put them on a board?

THE CHAIRMAN: They need it, probably.

MR. MACDONALD: Why, I agree, but. . .

MR. WARDROPE: Mr. Chairman, tell me this. . .

THE CHAIRMAN: There would be no law against a judge taking a refresher course, anymore than there is for the lawyer. . . we take refresher courses all the time.

MR. WARDROPE: Mr. Chairman, might I ask a question of these gentlemen. . . one of the big causes of disagreement and dissatisfaction is the time it takes for these conciliation boards to get going and get into these disputes, and that's one of the things, I believe, you want to correct, but there is a lot of delay and a lot of hardship and a lot of recriminations probably, and is conducive to meeting in an atmosphere of disagreement to start with, those long delays. . . am I not right in that?

THE CHAIRMAN: I think we've dealt with that pretty well.

MR. WARDROPE: Have you? Of course, I am new on the Committee.

THE CHAIRMAN: We're pretty well decided on that, Mr. Wardrope. I think from the consensus of the Committee that they agree that these delays have to be cut out.

MR. HAMILTON: You may be interested to know, Mr. Chairman, that the University of Toronto has begun something along the lines that we have suggested for some years and tomorrow there will be a session of approximately fifty people representing the legal profession, the unions, industry and the university to see if something can't be done on this very point and we are hopeful that something comes of that.

THE CHAIRMAN: So are we. Is there anything else on Page 10? . . . Page 11. . . Powers of Arbitration Boards? . . . Transfer of Collective Bargaining Obligations. . . ?

MR. HAMILTON: Well, this is one matter that is most important. . .

THE CHAIRMAN: We've heard it many times. Page 12. . . Public Employees. . . that has to do with Section 78.

MR. MACDONALD: Mr. Chairman, there is one question there I would like to ask. . . the view has been expressed by a number of unions who

are in the public service field and who recognize the problem involved in their ever considering the matter of going on strike and therefore the solution perhaps should be in compulsory arbitration, but since compulsory arbitration is regarded generally by the labour movement as a very questionable practice that sort of frustrates the whole proceedings, that they perhaps should be brought out under another Act. . . shall we say a hospital employee Act. . . which would have the normal procedures of the Labour Relations Act. . . conciliation and everything else, but in the end would acknowledge that this group would accept compulsory arbitration. . . what is the view of the trade union movement as a whole toward this ?

MR. HAMILTON: Well, we certainly are opposed to compulsory arbitration. The police, as you know, operate under a separate Act and they have arbitration, and they are part of our movement. . . now, I don't know, I haven't made a study of it or do I know how good it would be applicable in the hospital field, or not, but I can see dangers in suggesting that you set up special legislation for the hospitals, because tomorrow it would be municipal employees and the next day it would be somebody else, and the next day it would be somebody else. . . the first thing you know you have your labour relations broken down into separate Acts, and I think there are very inherent dangers in that kind of a procedure.

THE CHAIRMAN: Anything else under this topic, gentlemen?
Page 13. . . Building Trades. . . we have heard this submission about 78 many times.

MR. HAMILTON: Seventy-eight describes. . . and I think the building trades one as well. . . the building trades people will be here tomorrow or the next day, if my memory serves me right, and they will certainly be better equipped and prepared to make a case for their own trade.

THE CHAIRMAN: Page 14. . . unfair practices. . . Sections 11, 45 to 53. . .

MR. HAMILTON: Well, we'll leave that until after the supplementary brief.

THE CHAIRMAN: Do you want to leave that ?

MR. HAMILTON: Yes, sir.

THE CHAIRMAN: Page 15. . . Union Security. Any questions, gentlemen? Page 16. . . National and International Agreements.

MR. MACDONALD: You have no specific suggestions, have you?

MR. HAMILTON: It is very difficult in which to lay down the rules, Mr. MacDonald. . . Mr. Kidd with steel has had some experience, and packinghouse has had some experience, but it's a matter of getting provincial legislation. . . all provincial legislations to agree on some kind of a reciprocal agreement when these things arise. I think we should be looking into the Ontario Act, if the Ontario people were agreeable, to that kind of reciprocal agreement, but it would have to be written into the other Acts as well, and we have nothing specific in the way of written legislation that we think would take care of it. . . but it is a real problem.

MR. MACDONALD: Well, the thing that prompted my questions is. . . I am not a lawyer, but some other legal councilmen, I think members of the Committee who are lawyers in the past have raised the difficult problem in granting jurisdiction when it involves other countries. I mean, you might be able to get reciprocal agreement between provinces in Canada for, say, a national code, such as the packinghouse workers. . . if I understand such a problem as steel faced in the case of Marmora where in effect the pattern of the contract was laid down in the United States. . . there's your problem, you and you get international boundaries.

MR. KIDD: Well, perhaps it would be possible that there could be recognition in Ontario, for example, of what takes place elsewhere in these other countries. Now, the point that you raised there applies directly to my own organization, the steelworkers, where there are a number of companies that are one hundred per cent owned in the United States operating in Ontario, the negotiations there cover upwards of two or three hundred thousand employees and affects as few as fifty and sixty in one plant in Ontario and yet obviously you are bargaining for the whole of the corporation in the United States, but you are having tag ends in Ontario. Now, it seems to us that if we could recognize the pattern that is being set elsewhere we'd save ourselves a lot of trouble. I don't know how feasible it is to go through negotiations and conciliation for sixty people when the negotiations with the company are such, covering two or three

hundred thousand have already been completed.

THE CHAIRMAN: This is in another country.

MR. KIDD: In another country, precisely, and I recognize the difficulties there. And another part of this, of course, is the part of the. . . that we leave labour legislation in the hands of the provinces and some organizations, particularly steel and packing have asked that national legislation be modified to permit national negotiations in those industries which run across provincial boundaries such as these do who are the only two who are affected to that degree, but as neither one of these problems have been tackled to my knowledge as yet by any legislature in Canada, and I think that it is a problem that could be studied and some conclusion arrived at one way or the other.

THE CHAIRMAN: Take this for whatever it might be worth that a recommendation from this Committee to the Legislature that this matter be taken up with the Federal authority in Ottawa concerning the meat packing industry and steel particularly might have some beneficial effect?

MR. KIDD: It might have. Again, my own organization is raising this point after a lapse of about ten years because of some of the sort of thing that you mentioned there. . . they are again asking that the national government tackle this problem, but I think you'd have to go further, . . . you would probably have to make some sort of a rationalization with the Legislatures of other provinces. Some of them are kind of sticky, I know. . . probably more sticky than Ontario, in fact, but possibly in negotiations or discussions with those Legislatures might have. . .

MR. ARCHER: Well, isn't the answer, Mr. Chairman, to amend the no-strike legislation so that if the necessary negotiations have taken place, in the case of packinghouse in another province, or in the case of steel in another country, and they have gone through all the procedures, that if, with their fellow workers in other countries they go on strike or take some other economic action, that they aren't in defiance of the Ontario law. . . I think that. . .

MR. YAREMKO: The difficulty, I think. . . the difficulty to refer to the previous speaker that the legislation in other jurisdictions may be so far different to our own that if the other procedures were to be adopted across

the board we would be abdicating our field. If, for example, all labour legislation throughout all the provinces and the various States in the United States were identical there would be no difficulty at all. . .

MR. HAMILTON: I don't think we are attacking it at that point, I think that what we are saying is that regardless of the legislation affecting negotiations, once negotiations have been completed in some area, then it seems somewhat unreasonable that a mere handful of people have to go through a whole procedure here in Ontario to wind up with the same thing that has been agreed to with the corporation elsewhere. Now, possibly your point has more bearing if you take it on the basis of from one province to another.

MR. ARCHER: But, surely you can put in the necessary safeguard in that legislation. . . if certain procedures have been gone through in another jurisdiction they will be recognized in Ontario. . . if they aren't gone through then, of course, the union wouldn't be entitled to the benefits. . . but you could write in the legislation those necessary safeguards, whatever you think they are.

MR. YAREMKO: The safeguards, in my mind, would be along the lines of if the procedures in other jurisdictions were comparable to our own. Something of that kind.

MR. ARCHER: I might say the Minister of Labour is well aware of this problem because he has been involved in the problem for some time.

MR. WARDROPE: Mr. Chairman, might I ask Mr. Kidd a question. . . I notice here. . . "However, we recommend that this deficiency in the Act be given a high degree of priority when amendments are under consideration, and steps be taken at least to remove the cloud of illegality from strikes that develop in the course of national or international negotiations." Would you care to enlarge on that, Mr. Kidd?

MR. KIDD: Well, we are facing. . . I mentioned the handful of people in Ontario. . . the sixty in one plant and two or three hundred thousand in the company in the States. . . I can bring it out more clearly than that. . . Republic Steel operates. . . has two or three hundred thousand, maybe more, employees in the United States. . . our organization negotiates with them

at the same time as we negotiate with all of the other major steel industries in the States. . . industry-wide bargaining. . . but there is one plant in Hamilton, Ontario, that employs sixty people. It is completely inconsequential, you might say in the total numbers, but very important, of course, to the people in Hamilton and very important in our organization, but if they. . . if we agree, let's say, as an international union, with Republic Steel, that there will be certain wages, fringe benefits, and what not put into a contract. . . there is no assurance that those people in Hamilton can get those things in Canada, and they don't see any reason why they should have to go through negotiations here again afterwards, or parallel to negotiations in the States, through all the procedures here even up to, say, conciliation and the conciliation report which might then necessitate a strike for sixty people to get what a quarter of a million have already had. And we think that that is not a very practical way of doing business. Now, on the other hand, sometimes these people say. . . well, we're not going to be the poor relations in the case, and if they're going to do certain things in the States, the members of the same union, then we're going to do the same things here. It is possible, and it has happened that they will get out on a strike which is considered illegal under the Ontario Act. But they see it as their only alternative, and I suggest to you that it may be their only alternative.

MR. WARDROPE: Would you suggest we might go along and say that, well these things apply in the States they apply here, or what would you say would be the solution to that?

MR. KIDD: No. I am not asking for just a blanket acceptance of something that is done somewhere else. I am looking at it on the basis of single companies operating in various states and in various provinces.

MR. WARDROPE: With the headquarters there and a branch here, I see.

MR. KIDD: Yes.

MR. MACDONALD: Well, Mr. Archer made the point earlier that if you have the equivalent of negotiations . . . have met the requirements of the Canadian Act, then if they go on strike in Canada shouldn't be regarded illegal.

MR. YAREMKO: Mr. Chairman, we had a very comparable situation in a different field this Session. As you know, we have our own change

of name Act which applies to the procedure to anyone wishing to change his name in this province, and we passed an Act this session that if somebody has his changed in some other jurisdiction a registration of that change will be acceptable upon registration here in Ontario without having to go through the whole procedure of changing the name in Ontario. . . it is something comparable.

MR. MYERS: But, the employees in Ontario may want a different union from the union which did the bargaining in the United States, may it not?

MR. KIDD: That's quite possible.

MR. ARCHER: That has nothing to do with this.

MR. WREN: Is the variation very wide in steel between income, fringe benefits. . . between the United States and Canada?

MR. KIDD: Yes, it is. Except insofar as those companies that I have been talking about are concerned. . . Bethlehem Steel at Marmora, for example. . . the wage rates there, I know, are practically the same as in the States. . . but, if you take the industry as a whole in Canada and the United States you get a difference of between forty and fifty cents an hour. . . job for job and on the average.

MR. WREN: How does it compare in Canada? Is there any wide variation between provinces in Canada?

MR. KIDD: In steel? No. The rates in Sydney and Montreal are very close. . . there's about five cents an hour differential and very close to the rates in Ontario. Of course, the further west you go. . . on the Prairies the rates are generally low, but then in B. C., of course, the rates are quite high.

MR. MYERS: (ACTING CHAIRMAN) Well, are there any other questions that anybody would like to ask? And, have you anything that you care to add to what has been said?

MR. YAREMKO: On this national. . . there is just one further question. . . in this bargaining that has taken place in the past, have the parties agreed in the beginning when they started bargaining that they would be bound by the decisions. . .

MR. KIDD: Of which decisions ?

MR. YAREMKO: Does the problem arise where no contract was signed ?

MR. KIDD: In these international corporations.

MR. YAREMKO: Do the local people not get a contract, is that where your problem arises ?

MR. KIDD: Well, it's a complicated business because, in fact, what happens is that an international union agrees with an international corporation and writes a collective agreement covering all plants of the company. But these small operations in Canada are not necessarily assured that they will get the same things even though they have been agreed to elsewhere. So, this is the sort of thing that may lead into a strike situation. Now, we feel there must be some way of cutting this knot and permitting the negotiations with the company as such to set down the collective agreement covering all the employees.

MR. WARDROPE: Mr. Chairman, on Page 17. . . perhaps Mr. Kidd will give me a little more elucidation on this. . . it says. . . "Possibly the worst that can be said of the Board is that it has not yet decided whether to be an administrative tribunal or a labour court." . . . and then at the bottom . . . "If effective, it would enable the Board to tailor its procedures more to the needs of its own jurisdiction, and less to the unyielding requirements of the appellate courts. The final answer, however, lies with the Board itself, and its appreciation of the importance of its administrative function in the development of sound collective bargaining relationships throughout the province." . . . would you go on and give me a little more information on that, Mr. Kidd? That would seem to be an important decision that this Committee may have to make, and what do you mean exactly there ?

MR. KIDD: I will let Mr. Hamilton take that.

MR. HAMILTON: Well, the problem has been, at the outset the Ontario Labour Relations Board was a very informal board where trade unionists generally could come down and present their case and in a rather informal manner, and it had no courtroom atmosphere, or courtroom procedures. . . well, then they got into the position where the Gale decision and some other court decisions cornered the board into the position where they had to tailor

their operations, sometimes, we suggest, not with a view of the trade unions or their problems in mind, but rather in mind -- how were they going to make out once they got into the court -- and this has brought about a development of the Board where more and more courtroom atmosphere, lawyers, and what have you, and trade unionists today say that this is semi-judicial, more courtroom atmosphere Board than a board dealing with labour relations and human relation problems. Now, I don't want to be too critical of the Board. . . we have a Board member here. . . Mr. Archer. . . and I have to be careful what I say . . .

MR. YAREMKO: In the . . . as you said, this is the worst. . . now maybe you will tell us the best.

MR. HAMILTON: No. . . I am not going to tell you anything better about him, or about the Board, but the Board, on the whole, does a very effective and very efficient job. . . we have complaints, of course. . . we don't like the long delays in some of their decisions. . . they hold up decisions. . . particularly those decisions which deal with precedent, and they are afraid of getting out into the courts, and they hold them up for long periods of time.

MR. MACDONALD: Well, Mr. Hamilton, at this stage, is it possible even if desirable to move back from this courtroom atmosphere?

MR. HAMILTON: I think so. I think it is in the power and in the hands of the Legislature to do so.

MR. MYERS: What would you suggest that we do?

MR. HAMILTON: Well, I think that the first thing they should do, that if there is any defense of this legislation in the courts, that the government defend their own legislation in the courts, and I think that is the first thing they should do. Because, I think that people think twice before they fight the Ontario Government in the courts. . . and they don't have too many qualms about fighting trade unions in the courts. . . and I think that if the Ontario Government made it clear and made it known that they were going to fight their own legislation as it is written in the courts that there would be very few employers that would be keen in taking on the Ontario Government in disputes.

THE CHAIRMAN: You mean, where the question of the validity of the Act is concerned, or. . .

MR. HAMILTON: Well, where we say that nothing is reviewable in the courts.

THE CHAIRMAN: You don't think it should be ?

MR. HAMILTON: Pardon ?

THE CHAIRMAN: You don't think it should be ?

MR. HAMILTON: I don't think it should be, no. That's my own personal opinion. . . it should not be reviewable in the courts because we get bad decisions, we get good decisions, but we live with those. . . we work them out. . . that's part of labour relations. And we don't think labour relations can be settled in the courts.

THE CHAIRMAN: Well, not labour relations, but certain decisions having to do with legal matters. . . don't you think they should be referred to the courts. . . should be subject to review by the courts ?

MR. HAMILTON: Well, it may be on very, very rare occasions, but I think it should have the very closest kind of scrutiny before they go into the courts.

THE CHAIRMAN: You see, in our society we are taught to believe that the safeguards of all society rests in our system of law and unless we can have our rights aired before the courts of the land our rights are in grave danger of being taken away from us.

MR. HAMILTON: We're getting into a long argument here that we shouldn't get into, but we're not sure that we get the kind of justice that you talk about in the courts.

MR. MYERS: * It's the best there is.

MR. HAMILTON: This may be true. . .

THE CHAIRMAN: I mean, if the decision is against you you don't agree with it, just the same as any litigant.

MR. HAMILTON: But, regardless what the decision is, Mr. Chairman, when you get into the courts, trade unions just can't afford, most trade unions can't afford to get into courts. . . they lose whether they win or not.

THE CHAIRMAN: In what way ?

MR. MACDONALD: Well, there is this general proposition, Mr.

Chairman, that the Government itself has acknowledged that the courts are not the best place to deal with many aspects of labour relations, and for that reason they set up the Labour Relations Board.

THE CHAIRMAN: Oh, I don't think that was the reason at all.

MR. YAREMKO: The Board, the courts, our whole structure of government administration, with governments reaching and being in contact with the people in so many ways, so many kinds of Boards being set up. . . there's a general feeling abroad that there should be an appeal from all Boards because, gradually as the years go by there are more and more boards being set up and very often, not only in the Ontario Labour Relations Board, but other Boards, there are causes which prevent an appeal to the courts, and there seems to be a feeling abroad that that should be stopped or even also turned back to permit a review of all boards.

MR. KIDD: I believe that in the present Act, the Legislature must have had in mind the sort of thing that Mr. Hamilton was raising, because I believe it says that the decisions of the Board are not reviewable elsewhere.

THE CHAIRMAN: Supposing that you were confronted with this situation, Mr. Kidd, that the Labour Relations Board is dealing with a certain matter involving both management and union, and they come to a decision and make a ruling which is outside their jurisdiction altogether. . . now, as I understand it, those are the only cases that are brought before the court of appeals, the questions that have been given. . . or the decisions that have been given involve merely the situation that I have cited where the Ontario Labour Relations Board has made a ruling beyond their jurisdiction.

MR. HAMILTON: Well, what you say doesn't hold true, Mr. Chairman, because the case in the courts to set aside certification. . .

THE CHAIRMAN: Well, I'm merely dealing with the arbitration . . . I wasn't dealing with that angle of it. But, the Boards of Arbitration, the only time the courts have been asked to intervene is where it was alleged that they had given a decision which was outside their jurisdiction entirely. But, now, isn't that a proper thing? Isn't that right that that safeguard should be maintained? I mean, the Municipal Board often gives decisions with which I violently disagree,

and have. . . and I have one now that I am in entire disagreement with. . . I don't think that I should be deprived of the right, nor should my client, of bringing that matter to the attention of the court of appeals.

MR. HAMILTON: Well, haven't they, through the years, tried to settle these matters. . . labour relations matters in the courts without success? They just can't settle labour relations matters in court.

THE CHAIRMAN: Well, I think the only place you can settle the matter where a decision has been given that the body giving it had no right and nor jurisdiction to give. . . you've got to have. . .

MR. MACDONALD: Well, is it true that all appeals are only on those that are considered to be beyond the jurisdiction of the Board?

THE CHAIRMAN: In arbitration matters.

MR. HAMILTON: No, no. . . I think that the last one where they set aside. . . Mr. Archer is more familiar with the one where they set aside a certification of the Board. . . I think it was General Electric where they set aside . . . the time study dispute where they set aside the certification of the Board.

MR. MYERS: There must have been a ruling, the ruling must have been they found somebody hadn't any jurisdiction to deal with something they undertook to deal with.

MR. HAMILTON: Well, that was their claim when they went into court. It was proven wrong. . .

MR. MACDONALD: Mr. Chairman, may I ask Mr. Archer this question. . . In his experience with cases that have come before the Board and have been appealed, is there any significant proportion of them that deal with matters which are not the question of whether or not they are beyond the jurisdiction of the Board. . . in other words, that they are matters that are clearly within the jurisdiction of the Board?

MR. ARCHER: Well, the Supreme Court found, of course, in Justice Wells' decision, that Justice Wells was wrong. . . it was a question whether time study men, methods men, and so on, were or were not employees. We found that they were employees. The General Electric took us to the court and Justice Wells upset our decision and said they weren't employees. . . of

course, if they weren't employees we had no jurisdiction . . .

MR. MYERS: No, it was a question of determining what employees were.

MR. ARCHER: Well, I think that is a matter that should be left in the hands of the Board. The problem of trade unions. . .

MR. MYERS: But, it is set by the legislature . . . it says what an employee is.

MR. ARCHER: Well, who's to interpret it, Mr. Myers?

MR. MYERS: That's it. . . the courts.

MR. ARCHER: That's a decision for the court, you say. . . that's where we disagree.

MR. WARDROPE: Mr. Chairman, might I ask. . . you mention whether it be an administrative tribunal or labour court. . . your thinking there probably might be that the ordinary labour man hasn't the ability to face a high type lawyer. In other words, you were at a disadvantage in putting your arguments across when it's at court where there are skilled lawyers. . .

MR. HAMILTON: That's the point.

MR. WARDROPE: . . . and you think that the workings of the Board should be slanted rather than to the legal side to the humanities side, is that. . . do I take what you. . .

MR. HAMILTON: That's about it.

THE CHAIRMAN: Why some of the most brilliant lawyers in Ontario represent labour organizations. . . You take Mr. Osler. . . take Mr. Jolliffe. . . you can't get more outstanding counsel anywhere.

MR. HAMILTON: Well, that statement is true, Mr. Chairman, but I would say that if the employers of the Province of Ontario want to make an arrangement with us tomorrow and they would not use legal counsel, we'd agree with them.

THE CHAIRMAN: Oh, I don't think you'd ever get anybody to do that.

MR. HAMILTON: No, you bet your life you wouldn't.

THE CHAIRMAN: Why should they?

MR. HAMILTON: I'm not saying they should, but we have been

put in the position to have to use legal counsel, because they are using them and have used them and were the first to use them.

THE CHAIRMAN: I think the more you use them the better off you'll be.

MR. HAMILTON: I have a suggestion to make to this Committee and I think it would bear out some of the things I am saying. . . but, I think they could check with the Chairman of the Ontario Labour Relations Board when he comes up with some of these intervention cases that come before the Board, that this Committee spends three or four days down in front of this Board, and you'll see the courtroom atmosphere in operation, and you'll see exactly what I mean. . . exactly what we mean when we make this submission to you. I think . . .

MR. WARDROPE: After all, when you're faced with legality it's pretty hard to refute them in anyway when you don't know the routine. . . I can see that.

MR. MYERS: Would you put me clear on one point. . . an international union, having a plant in Ontario and several in the States, deals with a company which carries on its activities in Canada and the United States and makes an agreement. . . wouldn't that agreement bind the employees in the Canadian plant?

MR. HAMILTON: No. . .

MR. MYERS: Well, why couldn't it? Could it be made to bind them if it said that it would bind the employees in these plants?

MR. HAMILTON: You see, you have to make an agreement under the terms and conditions of the Ontario Labour Relations Act. . .

THE CHAIRMAN: It can't bind under the present labour legislation.

MR. HAMILTON: And they could make a. . . for example, they could make a six months agreement in the United States which could not be made under the Ontario Labour Relations Act. You have to conform with this Act in Ontario.

MR. MYERS: Yes. I know.

MR. WARDROPE: Mr. Chairman, this is an important question

in my mind. . . we have got to make a report on this. . . I would like to ask Mr. Hamilton what his thinking is if he were sitting in this Committee. . . what he would suggest. Now, if you would care to do that. . . what the Committee might do. . . some suggestion to us.

MR. HAMILTON: In what regard?

MR. WARDROPE: In this administrative tribunal as against the labour courts.

MR. HAMILTON: Well, I simply made my suggestion a while ago. . . I would leave the legislation the way it is and when the legislation was challenged in the courts the onus would be on the Government to take the challenge up to defend their legislation.

MR. MACDONALD: Well, as a matter of fact, we have a precedent in the Government doing that. . . I think they have defended the farm legislation on a number of occasions.

MR. HAMILTON: I think that if they would do that then I think that most of our court problems would be over.

THE CHAIRMAN: Well, I mean, in any case where the legislation is impeached in anyway or alleged that it is ultra viries, or anything of that nature that it always does defend its own legislation. . . not in specific cases as between parties, but where any particular section of the Act is alleged to be not within the jurisdiction of the Legislature. . . certainly the province always does.

MR. MYERS: But, there isn't any such thing as government legislation or everything. . .

THE CHAIRMAN: Could we have your supplementary brief now, Mr. Hamilton?

SUPPLEMENTARY BRIEF OF THE ONTARIO FEDERATION OF LABOUR

THE CHAIRMAN: Will you kindly proceed?

MR. KIDD: Before I begin reading, Mr. Chairman, there will be some words that I will change as I go along. I haven't had too much time to check it as I would have liked to have done, so I will make those corrections or changes as I go along.

In our original brief which was presented to your Committee, our Federation attempted to outline objectively, and we underline that word, some of the things in the Labour Relations Act and its administration which we felt could be changed to make for better labour relations in the Province of Ontario. We did not bring to you any of the day to day problems of our affiliates. Since that time there has been a steady stream of delegations appearing before your Committee with proposals to curtail the activities of unions and to put them in a legislative straight jacket so that they would be ineffective and rendered useless. We do not think that curtailing unions is the way to make for better labour relations. This might be valid if the unions were the ones to blame for some of the failings in labour relations matters, but this is not the case. Another disturbing feature of the work of this Committee was the move to set up, with the assistance of the Attorney General's office a Commissioner to probe some of the past activities of the Teamsters' Union. With all due respect, we are of the opinion that this Committee exceeded its terms of reference in setting up this commission. From a practical standpoint we cannot see how raising old issues and fanning old flames will in any way assist the work of this Committee.

The reason for our submitting this supplementary brief is that the impression being left with the general public by the publicity arising out of the hearings of this Committee is that the culprits and the thieves are the trade unions. Of course, this is just not true. Day after day employers in the province knowingly break the Ontario Labour Relations Act and nothing is done about it. We suggest to your Committee that if Commissions are going to be set up to review misdemeanours of organized labour, then the same should hold true for management. Since we were in front of your Committee last October we had talks with many of our affiliates about this problem and asked what their

experience had been over the past few years. This submission outlines some of the problems that trade unions have encountered in their day to day work in this province. These examples outline quite clearly the reasons why we suggested to your Committee in our original brief that changes in the Act were necessary. We did not think it advisable at that time to raise these issues, but subsequent events indicate that this is the sort of information that is being presented to your Committee. Management, for all its pious pleas that it has the interests of workers at heart, has never stopped its vicious and ruthless war to destroy union organizations. Now, I want to stop there and say that throughout, for the main part, we are discussing only those managements who are involved in the sort of practices which we will relate to you. We certainly have no reference to the large number of management who never stoop to such activities and with whom unions have good relationships. While claiming that the law must be upheld the same management, when confronted with the unions, strikes quickly and launches a reign of terror designed to frighten its workers so badly that the very mention of union inspires fear of retaliation. Although incidences of bloodied heads and broken limbs have decreased, management has recently increased its pressure against its workers both physically and psychologically.

(MR. KIDD CONTINUES TO READ BRIEF TO
PAGE 7 TO END OF SEVENTH PARAGRAPH)

" . . . as long as the union is there. "

MR. KIDD: I am sure that the Board will find a great deal of information in there and would probably be quite startled at some of the things that go on. Actually, of course, Mr. Finkelman, chairman of the Labour Relations Board, is quite well aware of all these cases here and could inform the Board as to what went on in those instances.

(MR. KIDD CONTINUES TO PAGE 8 TO END OF
PARAGRAPH 10)

" . . . the workers took what he could get. "

MR. KIDD: All this information is well documented. We have affidavits from a number of witnesses. We have two hundred envelopes where the pay marked on the outside did not correspond to the pay the man received. This is a matter, too, that we tried to get straightened out with Income

Tax but Income Tax authorities will not divulge any information on income tax payments. We feel that we can do nothing on it, but we feel that a governmental agency could do something about it. They could take the information we have to the Income Tax people and probably get this thing straightened out, and we feel it is a blot on all of us to allow it to continue.

MR. MYERS: Did you speak to any attorney about this?

MR. KIDD: No.

MR. MYERS: Well, wouldn't that be the thing to do?

MR. KIDD: What has happened, I am informed, in a number of cases is. . . and in a few cases. . . where this matter has been taken back to the employer along with a union organizer the employer has said, well this was a mistake and paid up, but all the others remain as. . .

MR. MYERS: I would think that there would be a conviction if you could prove that it was the habit of the employer to short-change. . .

MR. KIDD: Well, we would have to have more information, Mr. Myers, on that, and we don't believe that we can get it although we have tried. We believe that somebody in higher authority than us will have to do that.

THE CHAIRMAN: Well, of course, under the law you can subpoena their books and they'll have to produce their books in court and the court would pursue the prosecution.

MR. KIDD: Well, we'll take note of that.

(MR. KIDD CONTINUES TO BOTTOM OF PAGE 8)

". . . 95 per cent of whom did not speak English."

MR. MYERS: May I ask you one more question? Are these reputable . . . apparently reputable employers? Do they carry on business. . . ?

MR. KIDD: No. . . no, I wanted to say, and I was going to say it, later on, Mr. Myers, that there we are not talking at all about the general building trades contractors. Far from it. We're talking about some of these others whom we understand aren't even licensed. They are the ones where all this trouble appears. Not the reputable contractors, by no means.

MR. MACDONALD: Well, if they are not licensed and in business they are violating another ordinance, aren't they?

MR. KIDD: Well, that's not our business.

MR. MACAULAY: Well, how big are these people?

MR. ARCHER: Oh, mostly small. I think you would get this same information from the building contractors, the reputable building contractors themselves. They're as upset about this as we are because they have to try and compete with these sort of people. And, the kind of information we are giving you now you can get documented from Irvine and Marinni. . . they have the envelopes and so on. . . if they go with an envelope that says \$80.00 and the employee has only got \$60.00, they say. . . oh, we made a mistake, the time-keeper made the mistake -- and they pay him the other \$20.00. The job finishes, of course, like all building trades jobs. . . finishes in a week. He isn't fired for union activities, he is laid off because the job is finished. There can be no denial of rights. . . he doesn't go back to work in that plant. It is very hard to document this.

MR. MACAULAY: Mr. Archer, are these employers of any specific generic background. . . do they come from any specific country. . . are they New Canadians themselves?

MR. KIDD: I don't think we can answer that question.

MR. ARCHER: You can ask the building trades, they might give it to you. . .

MR. MACDONALD: If a man is violating the law I don't care what his background is, I think the question is irrelevant.

MR. KIDD: I think you should discuss this with the building trades themselves and, as Mr. Archer says, from our information they'll tell you the same thing as we are telling you.

MR. WARDROPE: We had the same thing from the bricklayers of Hamilton.

MR. MACAULAY: It seems to me to be appalling that these New Canadians should be deprived of their Unemployment Insurance and their holidays with pay, Workmen's Compensation, everything else, simply because they don't speak English. I think it is appalling.

THE CHAIRMAN: I think if you have documentary evidence to that effect that it's not only something to bring to our attention, but it is your duty, if you have the evidence, to bring it to a Crown Attorney.

MR. KIDD: Now, the rest of this page, again, is something outside the terms of reference but it simply bolsters our case for what's going on in this industry (Page 9) and we refer to the plasterers' part of the building trades, and you will notice that we say that another survey was taken by Mr. Irvine and Mr. Collins and they say that the field is even worse now than when they investigated it before. Now, if we could take Page 10. . .

MR. MACAULAY: Well, are you skipping all of Page 9 ?

MR. KIDD: Well, I thought it was something that was. . .

MR. MACAULAY: Well, I for one would like to hear it.

THE CHAIRMAN: There's no reason for reading it as I see it.

MR. MACAULAY: Well, why not? These people spent a lot of time preparing it. Why not hear it?

THE CHAIRMAN: If they want to delete that portion of their own brief and these men don't feel that they want to stress, then why should we pursue it?

MR. MACDONALD: Well, Mr. Chairman, if some members of the Committee want it read, why should we deny them the right of having it read?

THE CHAIRMAN: I think I am quite competent of reading it and so is every member of the Committee.

MR. KIDD: Maybe I can read this page quickly.

(MR. KIDD RESUMES READING TO END OF PAGE 10)

" . . . cruisers filled with police were soon on the job. "

MR. MYERS: You don't suggest that there wasn't any reason for these people to anticipate violence, do you?

MR. KIDD: I'm not suggesting anything. I am merely recording facts here, Mr. Myers.

(MR. KIDD RESUMES READING TO PAGE 12 AT END OF SIXTH PARAGRAPH)

" . . . steamroller campaigns to kill union organizing. "

MR. WREN: May I interrupt just a moment. . . you refer to "Simpson's" there. . . is that the Robert Simpson Company?

MR. KIDD: Yes. I just want to add to this last paragraph by way of clarification that we mean there that certificates are worthless when

people are frightened, are fired, or when the shops close, or when you can't get the committee to negotiate. . . then certification is useless.

(MR. KIDD RESUMES READING TO END OF
PARAGRAPH 10 ON SAME PAGE)

". . . Shefferman at beck and call. "

MR. KIDD: And, I want to refer for just a moment to the number of Canadian firms who have retained this valuable gentleman. We have a list, including the Canadian Couplings & Fittings, of Simcoe, Ontario, the S. S. Kresge Company, Serto Mattresses, Marshall-Wells, Nicholson Files, and American Laundry Machinery which is the parent company for the Canadian Laundry Machinery . . . those are some of the. . .

MR. MYERS: What does he do?

MR. KIDD: He is an industrial relations expert and you can get his record and the record of the McClellan committee. I think it was published, as a matter of fact, in Toronto papers not so long ago. The Fortune Magazine also had quite an article on Mr. Shefferman and his activities. He has hired out to a number of companies as an industrial relations expert, but his job was union busting.

MR. MYERS: How did he go about that?

MR. KIDD: Well, I don't know whether we should get into that long story here now, but there are all sorts of. . . some of the things that I have been talking about here now are the way. . .

THE CHAIRMAN: Questionable tactics, shall we say.

MR. MACDONALD: Well, Mr. Chairman, maybe your reasoning is too quick for me. . . but how did his connection get in with the Blue Cross agency. . . that's what I can't figure out?

MR. KIDD: I'll refer to that also. On Mr. Shefferman and the Blue Cross. . . he has worked for the Blue Cross Incorporated and the Group Hospital Incorporated in the United States and all through the adjacent areas of Ontario.

THE CHAIRMAN: Well, is it suggested that what he has done there has influenced Blue Cross here in Ontario?

MR. KIDD: We suspect that without anything to back it up. Just our knowledge of our own difficulties that we have had with these agencies

in organizing and operating unions. To continue. . .

(MR. KIDD RESUMES READING TO PAGE 13 AT
END OF THIRD PARAGRAPH)

". . . ordering Fabricus to obey the law."

MR. KIDD: These orders have not been signed with any regularity. In fact, this is about the only one that I know of personally but I am told that there are others, and we think that possibly that has been one of the weaknesses in administration.

(MR. KIDD RESUMES READING TO PAGE 14 AT
END OF THIRD PARAGRAPH)

". . . Both had been active in the organization drive."

MR. MYERS: Was there an agreement signed with Kaufman?

MR. KIDD: They are in conciliation.

(MR. KIDD RESUMES READING TO END OF BRIEF)

MR. KIDD: I just want to say in conclusion, Mr. Chairman, that I want to emphasize that originally our organization had hopes that our well-documented submission to you which outlined in comprehensive and reasonable fashion what a lot of people thought about the Ontario Labour Relations Act, was sufficient for our purposes. And, I might say that we were rather taken aback that over a period of some months every morning and every afternoon you'd pick up a paper. . . there was a blast from somebody appearing before this Commission about union practices. . . all sorts of allegations were made. . . I don't know if any of them were ever substantiated. I am aware that one organization is now before the Roach Commission. . . but we felt that the Committee, your Committee, had been put in the position of being a sounding board for every union buster in this province.

THE CHAIRMAN: We had a lot of submissions from unions, too. . .

MR. KIDD: Yes, I am well aware you had a lot of submissions from unions, but. . .

THE CHAIRMAN: . . . alleging a lot of things about management.

MR. KIDD: But, possibly I am on the wrong tract here, because I only read the newspapers. I wasn't able to attend your hearings like

some of our others were.

THE CHAIRMAN: We are not responsible for what the newspapers reports suggest.

MR. KIDD: No, but what I am saying is that we believe that your Committee was put in the position of being used as a sounding board by these people. . . and we think it was very unfortunate.

THE CHAIRMAN: Oh, no. We're not being used as a sounding board or any other way by anybody.

MR. KIDD: Well, that's fine. I am glad to hear that. But, the reason we brought this supplementary submission in here was to answer a great many of the charges that have been laid against unions. We are not claiming that unions are lily-white people anymore than we know management people are lily-white people.

THE CHAIRMAN: No, but I think you yourself will admit that management, as you've gone to the pains to point out in correcting part of this brief, you say. . . on page 2. . . "Management, for all its pious pleas that it has the interests of its workers at heart, has never stopped its vicious and ruthless war to destroy union organization." And then you took time out in presenting this brief to point out that you don't refer to management as such, but only to certain factions of management. . .

MR. KIDD: To that segment which is guilty of practices as laid down in the Act.

THE CHAIRMAN: Which, I take it, is not too large a segment.

MR. KIDD: It is a fairly sizeable segment, yes. We are faced with these things possibly day in and day out. . . we could give you a great many more examples of it. . . I could list you one down at Oshawa where there is a plant of fifteen people which was organized. . . fifteen were fired. We even went through the nonsense of having a conciliation board because it follows the law. But those people never got back in. I could mention Port Dover Shipyards. . . and we could give you a list as long as your arm. So, it's far too prevalent. The lot of bigger managements, more responsible people, we agree. . . certainly do not.

THE CHAIRMAN: Mind you, I am inclined to agree with your

submission that where a decision is made, or where an order is made by the Minister, or by the Board, that there must be some teeth put into this Act to make it enforceable.

MR. KIDD: Well, we would like to think that the Ontario Labour Relations Board itself could impose penalties for this sort of thing. If the Labour Board itself had the authority to impose penalties, it might go a long way to clearing it up because it is pretty obvious that the system that we've had over the past ten years hasn't worked as well as it should have and we believe that if the Board is in a position to straighten out these things much better than any other person. . . if the Board is non-political organization in its administration it can . . .

THE CHAIRMAN: In the case of the teamsters' union, apparently you resented the fact that this matter was referred. . . I just want to point out to you that it was the decision of this Committee on a vote of nine to one, I believe. . . the one against it being Mr. Myers. . . that this matter be referred to the Attorney General's Department because the allegations contained in the submission made by these people who appeared before us involved a very serious violation of the Criminal Code of Canada, if the charges they made were true. And I felt, as Chairman of the Committee, and I think Mr. MacDonald agreed with me because he was in agreement with the matter being referred to the Attorney General. . . that it was something beyond our terms of reference. . .

MR. MACDONALD: Mr. Chairman, may I since the Chairman has commented on that, may I interject here. . . I want to say first, Mr. Chairman, that I have never set eyes on this brief until it was read this morning. . .

THE CHAIRMAN: I didn't say that you had.

MR. MACDONALD: And I didn't say that you did. . . now, may I speak, please?

THE CHAIRMAN: Sure, but don't go. . .

MR. MACDONALD: I have not had an opportunity to discuss this with anybody. . .

THE CHAIRMAN: Well, nobody is suggesting for a minute

that you did.

MR. MACDONALD: May I speak, Mr. Chairman?

THE CHAIRMAN: Sure you may, but. . .

MR. MACDONALD: Fine. Now, my point is this. There are many charges in this which have no specific reference to the Labour Relations Act. . . they are violations of existing laws. In a previous instance, when we had evidence of violation of existing laws this Committee saw fit to recommend to the Attorney General's Department that a Royal Commission should investigate, in the instance of this union, to find out what was going on.

THE CHAIRMAN: We didn't make any such recommendation whatever. We referred the matter to the Attorney General. . .

MR. MACDONALD: Fine. . . Well, Mr. Chairman. . .

THE CHAIRMAN: . . . then the Attorney General took it up with the Legislature and you know what happened.

MR. MACDONALD: Mr. Chairman, my point is simply this. . . I now move that the violations of law listed in this submission which are not part of the Labour Relations Act and therefore are beyond our jurisdiction will be referred to the Attorney General's Department for a Royal Commission to be established to investigate management's violation of the law just as we have already recommended that in the instance of one union.

THE CHAIRMAN: As usual, Mr. MacDonald, you are trying. . .

MR. MACDONALD: Can I get a seconder for that, Mr. Chairman?

THE CHAIRMAN: Just a moment, please. . . as to whether or not the motion is in order. . . you're playing to the outside world in motion, which has not as yet been seconded, but there have been no allegations made in this brief by the people who have been aggrieved. We have got a statement from Mr. Kidd contained in this brief. In the teamsters' union matter the men against whom the alleged violations occurred appeared before us and stated that they were prepared to swear under oath that these things happened.

MR. MACDONALD: Mr. Chairman, may I ask Mr. Kidd a question? Is it possible to get those who were aggrieved to submit evidence?

MR. KIDD: Well, certainly we have people here with us at this moment who were involved. . .

THE CHAIRMAN: Who conducted an investigation.

MR. KIDD: Pardon?

THE CHAIRMAN: Who conducted an investigation.

MR. KIDD: Well, further than that. We have people here who were directly involved in a lot of the violations that we list here. . . people like Mr. Punit of the Rubber Workers. . .

THE CHAIRMAN: No, but he is not one of the aggrieved persons. . .

MR. KIDD: Oh, all right. . .

MR. MYERS: Mr. Kidd, there is one other thing. . .

MR. MACDONALD: Well, Mr. Chairman, I haven't finished yet. . . I haven't finished yet.

MR. KIDD: I wonder if I could finish answering the question that was asked me?

THE CHAIRMAN: Yes.

MR. KIDD: We certainly would be able to produce quite a number of people in any one of these instances. Now, it is not too easy, however, because those who were fired obviously have left for other jobs and they may be anywhere in Canada at this time. But there still are some people in these various situations who have been aggrieved.

MR. MACDONALD: Well, Mr. Chairman, my point is simply this, that this Committee, in my opinion, has absolutely no alternative if it wants to maintain a reputation of being a fair committee. . . in previous instances we had suggestions of evidence, whether it came to us directly or whether we can get it, is a side point at the moment. . . if this Committee wants to be fair it must now make a recommendation that violations of the law which are beyond its jurisdiction will be investigated just as we did in the instance of the teamsters' union.

THE CHAIRMAN: Mr. MacDonald, whether you think the reputation of the Committee is fair or otherwise is entirely irrelevant. Nobody is concerned with what you might think of the members of the Committee or whether they are fair or unfair. Speaking only for myself, but I think for the great majority on this Committee, we have tried to be fair and we have at no

time attempted to inject politics into the doings of this Committee. As I stated, in the case of the teamsters' union, which was referred to the Attorney General, there was a direct charge made by the men against whom violations had occurred, and I put it to them -- would you be prepared to swear to that under oath? -- and they said -- yes. Then the matter was referred to the Attorney General's Department. Here there is no indication to me that there have been violations of the Criminal Code. . . there have been broad general statements, but the people against whom these violations, if they did occur, were made, have not appeared before us.

MR. MACDONALD: Mr. Kidd has indicated that they are willing to bring these people before the Committee to document sufficient of them for taking action, and I am asking you, Mr. Chairman. . . I have made this motion. . . is there anybody who is willing to second it?

MR. MYERS: No, but I would like to say something about it. . . to repeat what I have already said, if there are obvious violations of the Criminal Code in short-changing, I can't understand why an attempt wasn't made to lay the case matter before the local crown attorney whose job is to do investigation matters just of that sort?

MR. HAMILTON: Mr. Chairman, to get back to the point in question. . . I'm a little disturbed frankly, and I have said so, about this Committee instigating the procedure towards, from this Committee, to the Attorney General. I think if anybody had anything to. . . violations to bring to the Attorney General they had a right to bring them and bring them long ago.

THE CHAIRMAN: Mr. Hamilton, if you had been here you would have heard these men say that they did attempt to do it and that the police would do nothing. Now, that's the reason that I thought it was of sufficient importance to refer it to the Attorney General.

MR. HAMILTON: Well, all right, I've got another question, at least, this morning, Mr. Maloney, which brings us back to the point in question of yesterday. . . I don't know whether it. . . it's a press statement and I take it for what it is granted and it says here. . . "Committee Chairman James Maloney suggested the company's complaint against the teamsters' union could be referred to the Royal Commission now conducting the enquiry into the alleg-

ation. . .

THE CHAIRMAN: I suggested nothing of the kind. . . I said that if the. . .

MR. HAMILTON: Well, I submit to you that this is a press clipping. . .

THE CHAIRMAN: Just a moment, please. Just a moment. I said, that if these allegations were found to be true that the matter should be referred.

MR. MACDONALD: Well, Mr. Chairman, the purpose of the Royal Commission is to find out whether the allegations are true. Why must these be proven before they are referred to the Royal Commission?

THE CHAIRMAN: We had Mr. Fisher and his brothers here yesterday, who were prepared to go on oath, as I understood it, that these instances that they related in their brief, in different cities, actually occurred.

MR. MACDONALD: What I am pointing out to you, Mr. Chairman, is that there are people who are now willing to come forward and to go on oath. . .

THE CHAIRMAN: Where are they?

MR. MACDONALD: He has indicated that they are willing.

THE CHAIRMAN: Do you think we are going to sit here until Christmastime waiting for these people to come here. . .

MR. MACDONALD: Look, now, Mr. Chairman, this is the key point. . . you people have played politics with this in the House on the issue of my going along with the vote to have this referred to the Attorney General's . . . you have played the politics, now just let me. . .

THE CHAIRMAN: I have played no politics, Mr. MacDonald, because your political importance in this province is so insignificant that nobody has to play politics.

MR. MACDONALD: Mr. Chairman, I just want to draw attention and comment on Mr. Myers' observation with regard to the teamsters' issue . . . that what happened in the instance of the teamsters' issue is that it was drawn to the attention of the police. I presume that unless the police failed in their duties, that they drew it to the attention of the Crown Attorney, and no

action was taken. In other words, the normal processes of the law did not operate to find out whether there was any convictions required or liable in that case. In spite of all that, we saw fit to ask the Attorney General to re-open all this and find out whether or not there had been a miscarriage of justice. In other words, we were getting a Royal Commission set up to fulfil what would normally have been done by the normal processes of the law.

THE CHAIRMAN: Just a moment. . . be accurate. We weren't getting a Royal Commission set up at all.

MR. MACDONALD: We submitted evidence to the Attorney General with the suggestion that this should be investigated and the Attorney General set up a Royal Commission.

THE CHAIRMAN: We made no suggestions that there be a Royal Commission set up.

MR. MACDONALD: My suggestion to you is that we have had. . .

THE CHAIRMAN: You were in the House when the suggestion was made and you endorsed the suggestion that a Royal Commission should be set up. . .

MR. MACDONALD: Now, I am pleading with my members of the Committee to be equally impartial, and since we have had some pretty incriminating evidence against management of violations of the law which are outside of the Labour Relations Act and therefore not within our jurisdiction, that we should submit this to the Attorney General for to see what appropriate action he thinks should be taken.

MR. KIDD: Mr. Chairman. . .

THE CHAIRMAN: Just a moment, Mr. Macaulay. . . all right, Mr. Macaulay.

MR. MACAULAY: I would like to say. . . aren't most of these, Mr. Chairman, to which Mr. Kidd has referred. . . aren't most of these things offenses which would come basically under the Labour Relations Act? Aren't they?

THE CHAIRMAN: Yes. They're practices.

MR. MACAULAY: So they aren't beyond the Act, and furthermore, some of them have already been investigated by the Minister. . . I don't

think we're in a position to investigate the Minister's investigations. . . and frankly, I think it can go off on a witch-hunt. . . I think Mr. Kidd and his Association has done a great service to us in bringing this evidence before us. Now, I think your point, quite frankly, is well taken. I think it was time there was some emphasis put on the mechanics which the employer goes to to abuse the opportunities and the rights given to labour under the Labour Relations Act, but I don't know that. . . first of all, I really think it can go off on a witch-hunt to go back into all these hirings and firings. . . I think our purpose is to stop it happening in the future. That's my views. And I don't think anything will be served by your presentation in doing it. But, I would draw to the Committee's attention that all of these things were offenses under the Labour Relations Act

MR. MACDONALD: But, short-changing. . .

THE CHAIRMAN: Order, Mr. MacDonald.

MR. MACDONALD: May I ask you. . . for your honest opinion. . .

THE CHAIRMAN: Just a minute. . . Mr. Macaulay.

MR. MACAULAY: Whereas I understood the complaint in the . . . under the teamsters' matters were not offenses under the Labour Relations Act, but offenses under the Criminal Code and it was well beyond our powers.

MR. MACDONALD: May I ask Mr. Macaulay a question?

MR. MACAULAY: I'm not going to debate with you, Mr. MacDonald. . .

MR. MACDONALD: My question is this. . .

MR. MACAULAY: . . . at all. You're putting on a great show, and go ahead.

MR. MACDONALD: My question is this. . . is short-changing a worker by not putting in his envelope the amount of money that is indicated on the outside. . . is that fraud?

THE CHAIRMAN: In an organization where there is no union involved, a small New Canadian organization. . .

MR. MACDONALD: Is that fraud?

THE CHAIRMAN: It's a question for the person who is short-changed to go to the Crown Attorney.

MR. MACDONALD: I suggest to you, Mr. Chairman, that that is fraud, and since we have had some evidence. . .

THE CHAIRMAN: Mr. Kidd has admitted that they have never gone near a Crown Attorney about these matters. Now, there is your first step. The other people who were before us said that they did and that they couldn't get anywhere because of the failure of co-operation from the police.

MR. MACDONALD: So we set up a Royal Commission.

THE CHAIRMAN: We didn't set it up. . . you agreed to it being set up.

MR. MACAULAY: Well, let's not spend all the public's time on this internal triangle.

MR. MORNINGSTAR: Mr. Chairman, what I am interested in is this one case here where the employer didn't collect Workmen's Compensation, and vacation with pay. . . that is entirely clear. I agree with you, Mr. Chairman, I think if there was something definite why then we could have this investigated. . . certainly there is one charge there. I don't think it's right. . . the man wasn't covered by Workmen's Compensation, vacation with pay. . . short-changed. . . evidence of it given to the proper authorities and certainly there will be action taken.

MR. KIDD: Well, Mr. Chairman, could I just wind up this particular point?

THE CHAIRMAN: Yes.

MR. KIDD: As I said, we were greatly concerned with the flood of statements coming in before the Committee and for that reason we set down some of the abuses against us. Now, we believe that in the first place the statements given to you by management were designed, apart from the publicity entirely, were designed to suggest to the committee that certain restrictions should be put on labour. We are now giving you the opposite side of the case to show to you that certain restrictions should be placed on management and ask that you make some sort of rule or some sort of thing. . .

THE CHAIRMAN: I think you're very right in doing that and I think you have done it very reasonably.

MR. KIDD: Now, let me say further on Mr. Myers' point

about the teamsters. . . that the press release that I gave on which I commented quite forcefully about the establishing of a Commission at that time omitted one paragraph when it was in the papers in which I said that these matters, if they are court matters then they should be referred to courts, not to Commissions, and if the teamsters had been guilty of some of these things well, then, that was their tough luck and they would have to face the consequences. But, it was my understanding that quite a number of these cases had gone to the courts and had gotten nowhere in the courts. Now, in a great many of them, as a matter of fact, the charges were dropped before they even appeared.

MR. MYERS: It is my opinion, Mr. Kidd, that this Committee should investigate these matters itself, that it is our job to make a better Act if we can.

MR. KIDD: Well, that is our hope.

MR. MYERS: And, I don't care a bit about prosecutions, I want to make the Act a better Act if we can.

MR. KIDD: That's our hope that this here will show you that there are two sides to every story as usual, and that you've got to understand our side of it before you can. . .

THE CHAIRMAN: Well, you can be assured, Mr. Kidd, that we realize there are two sides to it, don't think for one moment that we don't.

MR. WREN: Well, Mr. Chairman, might I say just one word about this. I think that the Federation of Labour has done a great service too in bringing this to our attention. It's a shocking document and I would say this quite unreservedly, that if your group can bring to this Committee any of the people involved in the illegalities set out here and can say to us, as the truckowners said to us that they had been to the Attorney General and the Crown Attorneys here and there and had been denied justice, then I would be prepared to recommend that the Attorney General conduct the same kind of an enquiry as is being conducted into other matters. Until that has been exhausted though I couldn't see my way clear to vote for it.

MR. MYERS: Mr. Chairman, may I make one more statement? My view in the truckers' matter arose from the fact that the truckers' union said that the independents wanted to be members of the union and the

evidence that came before us would indicate that they didn't. Now, that is the point there, and it is very necessary for us Committee members to know whether independent truckers want to become members of a union or whether they don't. I think that. . . now, I have always been under the impression that a secret vote would do away with chances of intimidation, but you raise a point there which is very interesting to me, and that is the difficulty of a union in finding a bargaining committee of employees. . . that seems to me a very important matter, and I would like to know whether you have any solution for that point.

MR. KIDD: No. I do think that if a lot of distinction is . . . my confreres here suggest that all that is necessary is that we have it legal for just the union representative to go in to negotiations, and certainly that is the point that we have always fought for and we feel that that is something that certainly should be invoked where necessary to get around the sort of thing where people are even afraid to vote on. . .

MR. MYERS: Yes, I can see that. . . how that could happen.

MR. ARCHER: That's Section 12 of the Act.

MR. KIDD: It's been amended anyway.

MR. WREN: In other words, put a skilled negotiator from your own office. . . in there.

THE CHAIRMAN: To bargain with the bargaining committee.

MR. KIDD: And, if the bargaining committee is afraid to go in let the negotiator go as a protective measure.

MR. MYERS: Well, now, what do you think about the right of an employer saying anything that he likes to his employees. . . whether you agree with it or not. . . and you have the right to say what you like, too, and have the matter then decided by a secret vote? Where would any danger lie of deceiving anybody?

MR. KIDD: Well, I think you'd have to look at the nature of the conditions under which a worker works. He's in a factory. . . he feels . . . this is taking it where there are no unions. . . he feels there's no protection there. . . he feels that he is almost compelled to do what the employer

tells him to do because he's afraid to do anything otherwise, so that I believe that maybe a lot of it is psychological. . . it must be so because a great many people, of course, have defied their employer who didn't want them to join a union and joined a union. But I think that there is a great deal of pressure there that can be brought to bear by employers. I think our Act, as far as an employer interfering is concerned, insofar as making speeches and that sort of thing is concerned. . . at least brings up the importance of the point but maybe it could be strengthened, however.

MR. MACAULAY: You have documented this very effectively . . . firings and re-hirings and so on. . . how are you going to establish, what is your suggestion as to how it can. . . how that kind of practice can be curbed? I mean, under our present practice they're not being convicted in anyway, either because they aren't being charged or because, in the alternative, it can't be proved. Well, if they aren't charged, presumably that is one thing, but if they are charged or brought before some kind of a tribunal, the Board, or something else, how are you going to strengthen that to make it workable in a democratic society?

MR. KIDD: I think you'd probably get into one of the difficulties in transferring labour relations or human relations, if you want, into the legal area. This case of Exquisite Form I mentioned here in one paragraph is an excellent example of the sort of thing you're bringing up where the employer was standing outside watching these people. . . he said he was waiting for his wife in a restaurant. . . then he followed these girls into another restaurant and he even followed them into the women's washroom. . . having said that it was a pure mistake, of course. . . but he took down the names. . . mentally he had the names of all the people who were there, and they all suffered as a result. Now, in court cases you can't prove this. It was unable to make that one stick. Now, what do you do in there? Surely there must be some way of the law getting around that sort of thing and making it impossible for a man to go through these actions which are sheer psychological intimidation. They end up in firings, too.

MR. MACAULAY: Do you have any specific recommendations?

MR. KIDD: I don't know as I do at the moment. Maybe

someone else. . .

MR. MORNINGSTAR: What do you think about the secret ballot?

MR. KIDD: Well, I think it should be held. We've certainly fought for the secret ballot. . . no show of hands. . .

MR. MORNINGSTAR: Like they mentioned here before, they show these cards and then the management sees they have signed these cards and they are in trouble.

MR. KIDD: Well, it is not always necessary to sign a card that is passed around a plant, you can sign it somewhere else if it's that drastic a situation.

MR. WREN: Sooner or later though the employer knows who did,

MR. KIDD: Oh, yes. But, the secret ballot, of course, is a very important part of the functioning of the Act. There is one thing that should be done in this matter that was raised by Mr. Macaulay. . . you could prevent management where this sort of a situation has occurred from hiring other employees until the whole thing is straightened up. Now, if a man can fire fifteen employees and defeat union organization and then hire some new fifteen employees, then I think that's something that can be done.

MR. MYERS: I was taken with the fact that some of these people who discharged employees immediately went into bankruptcy. It shows that an employer can discharge employees for several reasons. . . one of which . . . he can't afford to keep them.

MR. KIDD: There's another thing that could be done, I believe, is that where this evidence is before the Board and where it's substantial evidence then the Board could certify . . . give automatic certification, and that would certainly straighten out this sort of procedure very quickly. If automatic certification. . . where a union has the majority of people, where it was in the process of organizing and where it has a good chance of becoming the bargaining agent and then all these things happen. . . if the union had automatic certification then that would stop it.

MR. MYERS: Well, why not show the voting list as at the date the application for certification were. . .

MR. KIDD: No, that's not good enough because by that time a lot of people. . . it may have taken you a period of time to organize . . . twelve months or something like that and the whole work force may have been let go and a new one brought in. . . that wouldn't suffice.

MR. MYERS: But, close the voting list and. . .

MR. WREN: I think what Mr. Myers means. . . keep those who are on the original application list and entitle them to a vote. . .

MR. KIDD: What happens before you even get to the point . . . as some cases we've outlined here, where before you even get to the point of application your work force has been destroyed. . . or your organization has been destroyed before you've even come in?

MR. WREN: Well, what Mr. Myers means a man is still in the area even though he is not in the plant, as long as he's part of that union. . .

MR. MYERS: It would be very much to the employer's advantage to keep the employees in instead of kicking them out because they vote against him.

MR. ARCHER: Yes, and much of your intimidation comes during the original part of your organizing drive where you haven't got a majority of the people.

MR. MYERS: But, supposing you could have a secret vote with ten per cent, or five per cent of the employees? Just have a vote straight off? Without any organization, or a very minimum amount of organization.

MR. ARCHER: What kind of a vote would you have, and who would conduct it?

MR. MYERS: Why, the Department of Labour, I suppose. It would be the same kind of a vote that you have now but with less than fifty-five per cent, and then you could circularize the employees and so could the management, and then you'd have your secret vote and that would be it. Why wouldn't it be possible?

MR. ARCHER: Of course, one of your problems now is, as the Act stands, is that an employer can take an axe and hit them over the head, but if you can't get fifty per cent then you can't get certification, and I think it is proven to the satisfaction of everyone beyond a shadow of a doubt that these

oppressive practices have taken place, the Board should be allowed to certify regardless of the percentage in the plant, because the union is just never, under those circumstances going to be able to get a majority.

THE CHAIRMAN: If the Act was to be amended to provide for fifty per cent of those who vote rather than fifty per cent of those eligible to vote in those cases where it is necessary to have a vote, is that not. . .

MR. ARCHER: It would be of some assistance, but it wouldn't . . . the coercion and intimidation would still remain with you. How can the true wishes of an employee be expressed, even in a secret ballot or any other way where this type of intimidation has taken place either by a union or a company, no matter which one does it. . .

MR. MYERS: Well, can you think of a better way than a secret vote?

MR. ARCHER: Yes, surely, I think that if the Board finds that an employee has been coerced or intimidated by a union to join the union, then it shouldn't certify the union, if it finds that there has been coercion and intimidation on behalf of management, they should be allowed to certify without a vote taking place, because a vote under those circumstances will never express the true wishes of the employee.

MR. MACDONALD: Another question, Mr. Chairman, is this. . . a moment ago as to whether all those listed in the working force at the time of the application for certification should have the right to vote whether or not they are still in the employ. . . that is precisely the problem that was raised yesterday by Fisher's Bread. Their objection was that once they are out of the working force they should not have the right to vote because then that would be foisting the union on people still in the employ who conceivably did not want the union.

MR. ARCHER: There is doubtful legality whether you can allow one who is not an employee to vote. The Committee will have to get over that problem. . . of a person who is not an employee being allowed to vote in an employee election. I am afraid there would be natural justice taken the first time you tried it in one of the courts.

MR. WREN: Mr. Chairman, there is no doubt in my mind

that steps are going to have to be taken to prevent these unfair anti-union activities.

THE CHAIRMAN: Is there anything further, gentlemen?

MR. KIDD: We're available at any time if the Committee feels that we are of any use to them.

THE CHAIRMAN: We hope to conclude our hearings on the 15th of May, Mr. Kidd. If you feel that you have anything else to present to us by that time we will be very glad to hear from you.

MR. KIDD: If we are going to put in anything we'll do it in a day or so.

MR. ARCHER: The 15th?

THE CHAIRMAN: That's our present schedule.

MR. WREN: In point of view of a general question. . . what happened about these conciliation chairmen and so on who are to appear before us. . . are they going to appear?

THE CHAIRMAN: They have been invited four times, Mr. Wren.

MR. WREN: These conciliators. . . the four judges. . . who were to appear before the Committee, are they going to appear?

THE CHAIRMAN: They have been invited to appear. Gentlemen, this meeting now stands adjourned and the Committee will reconvene tomorrow morning at ten thirty o'clock.



ONTARIO
LEGISLATIVE ASSEMBLY.

THE PROCEEDINGS OF

THE SELECT COMMITTEE
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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1
Parliament Buildings
Queen's Park
Toronto, Ontario

FRIDAY,
May 9th, 1958.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q. C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

MR. WILLIAM JENOVES
MR. ALBERT HULL
MR. SAM SASSO
MR. GEORGE YATES

PRESENTATION:

A BRIEF BY THE BRICKLAYERS, MASONS & PLASTERERS ONTARIO
PROVINCIAL COUNCIL

APPEARANCES:

MR. ROWLAND G. HILL
MR. RUSSELL HARVEY
MR. HARRY COLNETT
MR. JAMES MATHIAS

PRESENTATION:

A BRIEF BY THE BUILDING & CONSTRUCTION TRADES INTERNATIONAL
OFFICERS' ASSOCIATION.

MR. MYERS ACTING CHAIRMAN

MR. PERKINS: Gentlemen, the meeting is called to order, and I would enquire if the Ontario Municipal Electric Association are present? Nobody here representing them?

MR. MYERS: Then we will go on with the Bricklayers, Masons and Plasterers' Ontario Provincial Council. What we have been doing is to have you read the brief and then we'll go over it and discuss any points that you raise. Read it first, page by page, and then we'll go over it page by page and the members will ask you any questions about it.

MR. PERKINS: The delegation is represented by Mr. William Jenoves, the president, Mr. Sam Sasso, of Windsor, Mr. George Yates and Albert Hull, who will present the brief.

MR. MYERS: Will you proceed, Mr. Hull, please?

MR. HULL: Mr. Chairman, members of the Select Committee, we are here representing the Ontario Provincial Conference of Bricklayers, Masons, Plasterers' International Union of America. This is the provincial body just covering the jurisdiction and confines of the Province of Ontario representing the Bricklaying, Stone Masonry, Plastering, Tile Laying, Marble Masonry, Cement Masonry, Mosaic and Terrazza Workers.

(MR. HULL READ BRIEF IN ITS ENTIRETY)

MR. MYERS: I think, the brief is a very short one, and I don't think there is any necessity of going through it page by page. Have the Committee members any questions to ask?

MR. WARDROPE: Well, I would like to ask the question, Mr. Chairman, as to why this organization feel that they would like to become exempt from the provisions of the Ontario Labour Relations Act? I think that's the first time we've had that.

MR. MYERS: Oh, no. We've had that before.

MR. WARDROPE: But, some of the reasons for wanting to be exempted.

MR. MYERS: I think that the reason is that it takes about a year to resolve a dispute, and by that time the building is over.

MR. WARDROPE: It's the conciliation problem again. . .

MR. JENOVES: It's not necessarily conciliation troubles, sir.

The whole machinery does not fit in our particular industry because of the fact that the process of the legislation makes it impracticable as far as our interest is concerned. First you have to make application for conciliation services which takes a great deal of time before it's finalized to the point that they grant the request, then a very very long process follows that in the form of investigation, and I think that you will appreciate the fact that while all this is going on that the building is being completed, and consequently we feel that the Act is of no value as far as we, as a building construction industry, is concerned and that is the reason why we have repeatedly appeared before the government asking to be exempted from the provisions of the Act.

MR. MACDONALD: Mr. Chairman, has this union given any thought to an alternative that has been presented in at least one other instance . . . at least I think it would be an alternative. . . namely, of the designation of a certain region, and within that region the Industrial Standards Act would apply, and that there would be an opportunity as there is in some other industrial fields for management and unions to come together and establish at least minimum wages so that you would undercut the extensive amount of low pay in the construction industry. . .

MR. JENOVES: That has no connection with this particular Act. There are two separate and distinct Acts. The Industrial Standards Act is one that establishes the hours and the wages, but this Act restricts the activities that are the natural function of an organization in that they should be able to exercise without being subject the provision of that particular Act.

MR. MACDONALD: No, but my point, Mr. Jenoves, is that if you had a region designated in which, in part through the framework of the Industrial Standards Act you have negotiations that fixed perhaps an amount that would be applicable to everybody. . . all employers and everybody within that area who is working, whether it was for a week's job, which is so short that you couldn't get certification, and so on. . . is this a feasible alternative?

MR. JENOVES: No. Because of the fact that the wages and the hours are not the only two grievances that we are complaining of. There

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are many circumstances that arise on a job separate and distinct from the hours of labour, and also the wages, that we want to be able to exercise our God given rights to be able to do, to protect the membership of our organization.

MR. MYERS: The only way you could do it now is to quit as individuals.

MR. JENOVES: But, even that, sir. . . now, we make reference there about picketing. . . even that, sir, is restricted. For instance, let us say that there is an organization on a legitimate strike. . . they have gone through the processes of law. . . they place a picket on the job, and if two of our members meet before they go on the job and discuss the advisability of not going through that picket line, they as individuals can be prosecuted and we as an organization can be prosecuted. Now, surely an individual in this day and age should have the right as an employer. . .

MR. MYERS: He would be prosecuted. . .

MR. YAREMKO: Mr. Jenoves, you are referring to two men who are not out on strike?

MR. JENOVES: That's right.

MR. MYERS: But, under this conspiracy section. . .

MR. JENOVES: That's right, for instance, if anyone that can be classed in the building industry. . . let us say, for instance, that the plasterers were on strike, a legal strike, and they place pickets on their job and our men refuse to go on the job. . . if two men met together in front of the job or close to the job and decided they would not go through that picket line. . . now, the individuals could be prosecuted and the organization could be prosecuted, too, for violation of the agreement.

MR. HULL: On conspiracy for an illegal strike.

MR. JENOVES: Yes.

MR. HULL: That would be the leading up of the charges under the Act.

MR. MYERS: I don't suppose you have seen any prosecutions that you know of. . .

MR. JENOVES: There have been many threats. . .

MR. MYERS: Have there?

MR. JENOVES: There have been many threats and it has been used to the detriment of the organization.

MR. HULL: Consent to prosecute on that charge has been granted in front of the Labour Relations Board.

MR. MYERS: Has it?

MR. HULL: Yes, definitely.

MR. MYERS: I think the Committee understands your problem all right. It's a very tough one to meet.

MR. JENOVES: We want to say right here and now, sir, that we're not trying to infer for one moment that the Act has not been of value to the workers, but we say definitely that as far as the building trades industry is concerned the framework of that legislation does not fit our industry.

MR. MYERS: You suggest no alternative, though, to complete exemption of your trades from the Act?

MR. JENOVES: Well, we have made that application repeatedly and in discussing the matter with The Honourable Mr. Frost along with the Minister of Labour and other members of the Cabinet, with the representative of the Ontario Federation of Labour. . . he, too, asked the same question. . . and I repeated it to him like I am repeating it to you. . . the only thing that will make us happy in the building trades industry is to get complete exemption, but in the event that cannot be possible, then some very serious amendments would have to be introduced to the Act whereby it is not an illegal act for people to refuse to go to work if there is a picket in front of a job.

MR. MYERS: Well, that seems reasonable.

MR. WARDROPE: Would you suggest some alternatives along that line, Mr. Jenoves, and present them to us?

MR. JENOVES: I would suggest them as a layman. I cannot use legal phraseology that would fit an amendment to the Act, but I would say this that that is one of the very very serious obstacles that we want to overcome . . . and that is. . .

MR. MYERS: That's Federal legislation, isn't it. . . the conspiracy. . . ?

MR. HULL: No. . . your Ontario Labour Relations Act

covers it.

MR. MYERS: It's a violation of what Section to. . . to. . .

MR. HULL: Well, I can't tell you the Section, but the employer can ask for consent to prosecute. . .

MR. MYERS: Do you know, Mr. Walsh?

MR. WALSH: It's under the Code.

MR. MYERS: Yes, it's under the Code. . . it's under the Federal legislation. It is not Ontario legislation.

MR. YAREMKO: Mr. Jenoves, isn't the problem this that the . . . one group, the carpenters, are out on a strike that is not illegal and they are picketing. . .

MR. JENOVES: That's right.

MR. YAREMKO: . . . and that there are other members of . . . maybe various unons, or maybe the plumbers. . . the plumbers who have a valid existing contract with the employer, who have no reason and who cannot, by our statutes, go on strike, decide not to cross the picket line and, therefore, they have become involved in a strike that is illegal, and two members who get together to discuss that are subject to the laws of conspiracy to commit an illegal act. . . that is, go out on a strike that is illegal?

MR. JENOVES: But we do not agree, sir, that this is a strike. We say that it's the prerogative of an individual refusing to go to work because of a principle. If the organization had ordered the strike against that particular operation, then of course, there may be some justification for the interpretation that has been placed upon the Act. But I say, as individuals, we should have the right to refuse to go through a picket line without being threatened with prosecution.

MR. YAREMKO: If that exemption were to be put in effect, the principles go much further, because here is an employer who has a valid subsisting contract with the group of men. . . the plumbers. . . valid in all respects, neither party has committed any breach of that contract, but because some other party, a stranger to that particular contract, has taken an action, you are suggesting that that contract should no longer exist. . . should no longer be binding upon the parties.

MR. JENOVES: I'm not suggesting that, sir. I am suggesting that an individual should have the right to refuse to go to work on a job because of a principle, the same as an employer has a right to refuse an employee a job because of certain reasons that he may have for himself.

MR. YAREMKO: But, the employer couldn't go to the plumbers and say -- I will not give you employment because the carpenters are out on strike. . . .

MR. JENOVES: No, he just says -- I won't give you employment period.

MR. MYERS: The carpenters couldn't go on strike, could they. . . .

MR. JENOVES: Pardon, sir?

MR. MYERS: I say, it would be impossible for the carpenters to go on strike because nobody could go through the conciliation procedures. So there couldn't be a lawful picket line, could there?

MR. JENOVES: Yes, but I made that point at the beginning, sir. . . . I said -- if there was a proper and a legal strike of one segment of our industry. . . .

MR. MYERS: There couldn't be, though.

MR. JENOVES: Oh, yes, sir. . . . they've gone through all the processes of law and the waiting period has been gone through and a legal strike is in operation. . . .

MR. HULL: After seven days

MR. JENOVES: . . . after seven days waiting period a legal strike is in operation and they place a picket on the job, and because other union people refuse to go through that legal picket line they're liable for prosecution as is the organization.

MR. MYERS: Yes. . . . I was just wondering how the picket line ever got there because the conciliation procedures can be drawn out so long that the building would have been finished.

MR. JENOVES: Unfortunately, that happens in many many cases.

MR. MYERS: So, you never get to the point where there can

be a legal picket line.

MR. JENOVES: Well, it has happened, sir. It has happened that we did get action from the conciliation office to the extent that the job was not completed and therefore the organization that had the grievance was justified in placing pickets on it.

MR. MYERS: I wish you would think and see if there isn't some way that you could stay within the Act and still have some. . .

MR. JENOVES: I might say this that we have repeatedly discussed this piece of legislation at different conventions of all the various building trades of our organization connected with our movement and while there may be some exception to the rule, generally speaking I think that's the opinion of the building trades that they would prefer to live outside the Act than they would to live under it, because as we have already stated, experience has taught us without any fear of contradiction, we've had more strikes since the Act came into being than we had before we had any legislation. Now, you may ask why. The reason is, the apathy of the employer in many cases in adopting the machinery of law thereby taking advantage of the delay that is caused. . . it is simply a delaying tactic in order that he might go on with these operations.

MR. MACDONALD: Well, Mr. Chairman, I want to come back to the question I was asking earlier, because maybe it should be put within the framework of shifts. . . the powers that be were not willing to take you from out under the Act. . . what would be your reaction to the other proposal I was raising, because the reason why I raised it is that I think I am correct that it was the bricklayers of Hamilton, just about three or four days ago, who came before us and I, again subject to recollection, they made no specific requests for being taken out from under the Act but rather they focused attention on the problem that they face with the great difficulty maintaining the standards that they now have in their contracts because of the great influx of chiefly immigrant workers who are working, in many instances, for a dollar an hour, or at the most up to about two dollars an hour, when your contracts are much higher than that, and they say it is almost impossible to maintain these contracts, particularly when you've got a number of small or fly-by-night constructions companies which are competing with the constructions firms that you have your contracts

with, and their proposal was that some effort be made to establish, on a regional basis, a contract which would be applicable to everybody, and as a result of that proposal we pursued it a step further and said, now can this be realized through use of the Industrial Standards Act which, for example, the textile trades do, where you bring your employers in. . . they are notified that a conference is being held. . . the employers come in, the workers come in. . . if some contractors don't choose to come to that, that makes no difference, they still have to live by it, and at least you have a minimum established within that region for that industry and it would meet the problem of this serious under-cutting of contracts that you now have. Now, my question. . . perhaps it would be more fairly put originally if I put it this way. . . assuming that you are not taken from under the Act, what is your view of this alternative suggestion?

MR. JENOVES: Well, I want to say right here and now, Mr. MacDonald, that we have that opportunity now. . . we have an Industrial Standards Act. . . but the machinery is so cumbersome that we never were happy with it. We were under the Industrial Standards Act. . . Mr. Perkins will remember . . . we were under the industrial standards Act many years ago, but it's another piece of legislation that's on the statute books without any serious attempt being made to enforce it.

MR. MYERS: And it would set a maximum salary, too. . . That would be one objection to it, I suppose.

MR. JENOVES: Well, no. . . this doesn't set a maximum. . .

MR. MYERS: No, no, no. . . but, in effect, it would.

MR. JENOVES: It sets a minimum which invariably becomes a maximum.

MR. MYERS: Yes, that what I mean.

MR. JENOVES: Yes, sure.

MR. MACDONALD: Is there any other alternative way of realizing the proposal that was made by the Hamilton bricklayers, of sort of a regional contract that would be applicable to all. . . is there any other alternative way of achieving that other than use of the Industrial Standards Act?

MR. JENOVES: Well, there are many many wild dreams being made by different individuals that we do not agree with, we do not share that

opinion. We are not of the opinion that paternal legislation is the solution to the labour problem on the industrial field. . . I am one of those. . . I may be old-fashioned. . . I am one of those, that I am not in favour of paternal legislation as far as labour is concerned. Give us the right to use our economic power and strength and I think that we would be much happier than we would be under paternal legislation of this kind.

MR. MYERS: Have you discussed this with employers. . .
I suppose, many times?

MR. JENOVES: Many times.

MR. MYERS: And, they don't want a change. . . or do they?

MR. JENOVES: Well. . .

MR. MYERS: Because they came here and told us of their problems, too.

MR. JENOVES: We can appreciate this fact, sir. . . we can appreciate that the employer has got a very very valuable instrument in his hands now under this provision of this Act, and he would be foolish if he came to you and said -- that we don't want it. We're coming before you because we're not happy with it. . .

MR. WARDROPE: Might I just ask Mr. Jenoves this. . . now, what we're faced with, as you know, is writing a report at the end of these conferences to the government, and we've got to state what we think is proper from deliberations and the briefs that we've heard. . . now, we have asked you some questions regarding that and I take it that the only thing you would be entirely satisfied with is if we were to say, in our recommendations, in the best interest of all concerned that they become exempt from the provisions of the Ontario Labour Relations Act?

MR. JENOVES: That's right.

MR. WARDROPE: Then, you have no other alternative. . . that is, you have no alternative. . . that is what you would wish us to do.

MR. JENOVES: The only alternative that we have, as I say, that I told The Honourable Mr. Frost, in the presence of his Ministers, along with the Ontario Federation of Labour at that time, that if no other change can be made to the Act and you are still insistent that it is to our advantage, then

remove the obstacle in the way of us being restricted in picketing and whereby it will not be a criminal offense for a man to refuse to go through a picket line because of his principles that he shouldn't do so.

MR. MACDONALD: Have you any other alternative proposals for speeding up the certification and conciliation procedures?

MR. HULL: Well, Mr. Chairman, may I ask a question first, of the last speaker. . . when you said labour be taken out from under the Act. . . I think that was your question. . .

MR. WARDROPE: No. I asked if that was what would satisfy you, and that only.

MR. HULL: You are speaking now of our own presentation . . . of our own segment of the building industry?

MR. WARDROPE: That's right.

MR. MYERS: Would you go this far to say that members of your union would have the right to refuse to go through a picket line if the picket line were a lawful picket line.

MR. JENOVES: If it was a legal. . . if it was a legal. . . that itself would be an improvement, but we still want to reserve the right for a union man to refuse to go through any picket line.

MR. MYERS: But, the alternative might be, too, if you could get the conciliation procedures to speed up to the point where they could be determined in the matter of days. . .

MR. JENOVES: That's true. . . but, on the other hand, sir, on the other hand after you have gone through all the cumbersome machinery set up under the Act I venture to say that thirty-five or forty per cent of the cases, it serves no useful purpose other than delaying tactics and the employer and employees have got to go back where they started from and negotiate an agreement for that job. Now, if that's an admitted fact, then what purpose is it serving other than delay.

MR. MYERS: We haven't considered it yet, but supposing you have a single conciliator and you speeded up the processes tremendously, would that meet your requirements?

MR. JENOVES: Well, it might help it. . . it doesn't solve the

problem. . . the problem is still the same because, in the final analysis, he's only just simply a glorified Good Samaritan trying to get the two parties together which they ought to be able to do for themselves if the Act didn't give him the opportunity of causing the delay.

MR. YAREMKO: Could the problem be solved, that if you had one contract which covered all the people, one contract which covered the plasterers, the carpenters, the plumbers, so that if they went on strike everybody would be out on strike. . . one contract would be negotiated. . .

MR. JENOVES: I don't know whether that might not be. . .

MR. YAREMKO: Then you wouldn't run into the problem of having these men, say the plumbers, confronted with the principle of crossing a picket line because the carpenters were on a legal strick. . . they'd be all out at the same time?

MR. JENOVES: I don't know, sir. That is a very, very debatable question. . . we could not agree that that would be the solution to the problems, because there are still aggravations that arise from time to time that would be outside of the negotiation of a new agreement that would be justifiable action for to stop work.

MR. MORNINGSTAR: As I see it, these groups there. . . the two or three, or three or four different groups, belong to the same union. . . the plumbers, or carpenters or bricklayers still would be on a legal strike because they belong to your same union?

MR. JENOVES: Not necessarily. . . we belong to the building trades council, we belong to the Canadian Labour Congress, we belong to the Ontario Federation of Labour, we are all affiliated to the building trades conferences, and so on, but each organization has its own autonomous rights and they certainly legislate for themselves.

MR. YAREMKO: Mr. Jenoves, take one of the big buildings that go up downtown. . . one of the big buildings. . . how many unions might be engaged in one of those?

MR. JENOVES: About eighteen or twenty-five. . . when I say eighteen or twenty-five, is that there are a number of organizations that control two or three. . . for instance, you heard our group, where we have the brick-

layers, the stonemasons, the tile setters, the marble masons, and so on down the line. . . but I think. . .

MR. HULL: Excuse me. . . I would say in the Toronto area there would be about twenty-three or twenty-four local unions.

MR. YAREMKO: There could be a possibility of twenty-three engaged on one particular job. . . so that if one union is out on a strike which is legal and the others have no cause, you are suggesting that all others should have the right not to cross the picket line.

MR. JENOVES: As individuals.

MR. MYERS: I think there's a lot in what you say, Mr. Yaremko. Well, couldn't you form an association for each big job. . . where the unions would act in concert?

MR. JENOVES: We couldn't do that because that's just exactly the point that we're complaining about. . . that when we take concerted action we're in violation of the law. . . we're subject to prosecution.

MR. MYERS: On the other hand, it's because you don't cross the carpenters' picket line, we'll say, it's because you like the carpenters so well that you don't want to cross their picket line, but why couldn't you all get together and then make one occasion for a picket line, you're ready to respect the other guy's anyway, well, why don't you just carry that a little bit further.

MR. JENOVES: The answer is still the same. . . we are still subject to the provision of that Act.

MR. JAREMKO: No you wouldn't. You either had a contract . . . everybody would be out on a picket line at one time, would they not?

MR. JENOVES: No, not necessarily. As I say, there are aggravations that arise on the job. . .

MR. MYERS: You can have a combined conciliation sort of . . . I'm all for that.

MR. YAREMKO: Well, tell me, Mr. Jenoves, has there been any opposition from the construction trades to negotiating on this group basis?

MR. JENOVES: There is for this reason. There are groups of different organizations that deal direct with their own people. For instance,

the general contractor he employs possibly five or six different crafts. The plumbers' organization, that is, the Plumbers employers association, he will deal with the plumber and the steamfitter. . . the electricians. . . the sheet metal workers. . . each one of those craft organizations deal with their respective employers' associations, and they would not surrender their rights, they would not surrender their rights to permit the general contractor to speak for them.

MR. MACDONALD: Well, Mr. Chairman, I have another question I would like. . . to get back to . . .

MR. MYERS: Yes, but will you wait for a minute. . . have you anything more, John?

MR. YAREMKO: I was just going to ask one further question. If the alternative to complete exemption is a special procedure for the building trades. . . if it is humanly possible to evolve a special procedure. . . would the remainder of the union movement agree to this that these exceptions were made for you, or would everyone want that exception . . . to stop being an exception and apply right across the board?

MR. JENOVES: I would say this that each industry has its own peculiarities. . . what we object to may not apply to somebody else. Now, we are not suggesting for one moment, as I said on the onset. . .

MR. YAREMKO: Take the conciliation. . . now, it's not just the building trades that complained about the long delays involved, the uses or abuses to which the conciliation procedure can be put to, . . and if we were to come up with a special hurry up crash program of conciliation for the building industry, everybody else might think -- well, that special crafts type of conciliation procedure should also apply to them, because they have also complained for reasons of their own on the delays in conciliation procedures.

MR. JENOVES: Well, I wouldn't imagine that anyone should object to that if it is going to improve the Act, and it is going to work in the interest of all concerned. . . why, surely, nobody should object to it. The reason that the other people are complaining is because of the long delays that it takes in order to finalize any proposition that they may have before the Board, and if the suggestion is made that you're going to be able to speed up this work. . .

they have been complaining. . . everybody else apparently has been complaining, that is, as far as the worker is concerned. . . then I think you can make them all happy if you could speed it up. I don't think that there would be any objection in that respect, and as far as exemptions are concerned, there are many, many workers outside of the protection of that law today. . . that's what the Honourable Prime Minister said -- he said---well, if you people get out of the Act other people wants to get out of the Act. And I said then, as I will say here to you now, sir, that if that is going to make the workers happy to be outside of the Act, surely no legislation should be introduced that will make people unhappy.

MR. WARDROPE: Well, then, would there be any control, Mr. Jenoves, about wild cat strikes and all that sort of thing if you did that? Would there be any control at all that anybody would have over those things?

MR. JENOVES: Well, the only thing that I would say is this, that if you let your mind go back fifteen, twenty. . . twenty-five years, when we had no legislation and the records will prove that we had less labour disputes and strikes than we are having today and I think that's an indication that the legislation is not being used to the proper purpose it was intended. . . to prevent strikes.

MR. WARDROPE: We've got so much legislation probably it's disrupting everybody. . . that could be.

MR. JENOVES: That could be.

MR. MYERS: I believe Mr. MacDonald. . .

MR. MACDONALD: Well, Mr. Chairman, I want to say. . . I recognize that your initial and prime request is that you be taken out from under the Act.

MR. HULL: Yes, sir.

MR. MACDONALD: Now, sometimes, as you know, in negotiations you can't get everything you want. . . the point I want to try to get clear in my mind is this. . . you've made this request to the government in the past and for their own reasons they've seen fit not to accede to it. . . they may see fit not to accede to it no matter what we recommend, therefore, my question to you is this. . . what specific recommendations have you got for speeding up on the two

problems that face you with such difficulties. . . A. . . certification and, secondly, conciliation?

MR. JENOVES: Well, I don't want to go into any details in that respect, Mr. MacDonald, because I want to say frankly that we have kept as far away from this labour relation Act and the Labour Relations Board as any group of workers can possibly stay away from. We've had very, very valuable assistance from the Labour Department in trying to bring two people together after a deadlock, and consequently I can't suggest anything that might be introduced at this time that might expedite the procedures. I just want to concur in the representation that has been made by other organizations about the long delay that is entailed in the time that the application is filed until the thing is finalized. Now, just what can be done to speed that up, I'm not an authority in this respect. Because, as I say, we have not used the Act any oftener than we've had to.

MR. MYERS: Let me say this, I think the points that Mr. MacDonald raised are very important ones, and if you can think of anything that will speed up the procedure, I wish you would submit it to us in writing as soon as you can. We recognize your problem, but the thing is what are we going to do about it.

MR. JENOVES: I am sure, sir, that the delegation who follow us here, who are representing all the different organizations through their international representatives, in all probability will make some suggestions in that respect, and I would prefer to accept their suggestions along the lines.

MR. WARDROPE: How would it be, Mr. Jenoves, if you leave the union and take a position with the Labour Relations Board?

MR. JENOVES: Well, I might say, if that's any consolation to you, that I could have had many of those, but I preferred to represent labour.

MR. HULL: Why wouldn't you be on that Board?

MR. JENOVES: I don't know. I don't know whether I'd be happy or not. We had a couple of our labour men on there and I wouldn't like to speak for them to say they are completely happy with their situation there. However, they can speak for themselves.

MR. WARDROPE: That might be one of the fortifications that you

could get.

MR. MYERS: Is there anything more that any member would like to ask this delegation, or is there anything more that the delegation would like to say?

MR. JENOVES: No, I think that that covers it, sir, as far as we're concerned.

MR. MYERS: Could I say that I think we understand your problem very well and may I say, too, that you have presented your case in a way that if we didn't understand it before, we understand it now, and we thank you very much for your coming here today and presenting your brief.

MR. HULL: On behalf of the Committee that is here and on behalf of president Jenoves, I want to thank you, Mr. Chairman and the members of your Committee for giving us this time to make this presentation before you.

BRIEF OF THE CANADIAN OFFICERS OF BUILDING & CONSTRUCTION
INTERNATIONAL UNIONS - Friday Morning, May 9th, 1958 - Vol. 47

MR. MYERS ACTING CHAIRMAN

MR. PERKINS: Mr. Chairman, the next submission is from the Canadian Officers of the Building and Construction International Unions, and on Page 23 of their Brief you will see that the presentation will be made by Mr. G. Russell Harvey, the Chairman of this group, and he is accompanied by a large number of the International Officers of the Building Trades, whose names are listed.

MR. MYERS: Mr. Harvey, the way we have been dealing with the briefs is to read them all through and then to go back and discuss them page by page, but we would like to deal with your brief in whichever way you think you would like to have it dealt with. Now, if that would meet with your approval. . . we have found it satisfactory to read it all through and then go back page by page.

MR. HARVEY: Yes. Thank you, Mr. Chairman and gentlemen. We might express an opinion before reading the brief. We are fully cognizant of the problem of this industry and although we attempted to deal with the specific details, relating experience over the years, we have resisted that temptation and seek in this brief to propose an approach to the problem that is rather broad and we believe to be the direction in which the entire industry should be encouraged to travel. We will proceed with the reading and I think our viewpoints will be readily discernible.

(MR. HARVEY COMMENCES TO READ BRIEF
READING AS FAR AS PAGE 5 TO END OF SECOND
PARAGRAPH WHERE HE MADE REFERENCE TO
EXHIBIT 1)

MR. HARVEY: Now, Mr. Chairman, in Exhibit 1, this was presented only to demonstrate the problem that faces the administrative arm of this legislation, that is, the Ontario Labour Relations Board, and I will read.

(MR. HARVEY READ EXHIBIT 1 AND THEN
RESUMED READING BRIEF TO THE END)

MR. MYERS: All right, gentlemen, we'll go over the brief now. . .

MR. MACDONALD: Mr. Chairman, if I may make a general observation at the outset, I think if our good friend, Professor Logan can ever find time to prepare an anthology on writing the history and purposes of Canadian Trade Unions, you'll have a worthy item for inclusion here.

MR. MYERS: Well, let's go over the brief. . . Page 1. . . Page 2. . . Page 3. . . Page 4. . . 5. . . if you want to extend what you say here, it will be perfectly all right. . .

MR. YAREMKO: Mr. Chairman, I may say that you were here when the first brief was presented, Mr. Harvey, and you may have seen some of the thinking that was going on in my mind. I didn't know this brief was coming, but I had some of these problems in mind that you have dealt with. This principle of picketing. . . this basic principle that unions and members of unions have pledged themselves to not crossing a picket line. . . does that principle not come into conflict with the general principle, the broad principle in our law, about the validity and sanctity of a contractual agreement which applies in all fields of our system, not just to the union agreements but contract . . . in many fields of our activity in all levels through the years there has been a rather sanctity given to an engagement entered by two parties, and that's the problem that has always bothered me that that basic principle seems to be in conflict with the other basic principle of the contractual obligations which a man takes upon himself and, of necessity, must abide by.

MR. HARVEY: Yes. Well, sir, can we answer it in this way? First we are dealing at a level of statesmanship at meetings that must envisage not surface evidence of the malignant growth on which you put a little ointment, we must have a clinical observation of the thing, we must go to the root of the problem, and in relating this basic concept of contractual obligation and recognition we must all of us support that proposition, otherwise we would tend to weaken one of the very foundations of our society. We have no conflict with the concept that a contractual obligation must be met. I am sure it is the public impression that unions have no regard for that. We rely on that very feature just as much as an employer relies on it. But, now to get back and get a focus on this evidence of a refusal to be bound. First, in the Labour relations field where an individual elects to refuse to cross a picket line based on the reasoning

of the Exhibit 1, the Donolo experience, that right must be preserved, the right of the individual to make his own assessments of the possibilities of danger or whatever it might be, reputation and all that is involved. That's his individual exclusive right to determine whether he will go to work. . . you see, a collective agreement does not envisage forced labour, it is not a means of compelling people to work but merely an observation of a mutually agreed arrangement. Now, to get back to this situation. . . there are faults on the union side. . . we willingly admit that. The very structure of the building trades unions envisages individual autonomy, each union will tell you that they are self autonomous. Now, growing out of this peculiar industry, it is peculiar and different from all others. . . you find the individual contractor focusing all his attention on a contemplated project. His competition is intense. We would like to say something about the industry later. . . he will seek every advantage possible, and will, due to his lack of organization, rely upon his own peculiar genius, his own thinking, and we find there the very nub of this problem, where this union meeting this contractor for the first time with no understanding and no basis, no foundation, although there is an agreement on paper, each is seeking advantage. Now, perhaps the unions wont agree entirely with this viewpoint, but we think in the description of the experiences we have had at the top in Allied Council, we answer those questions, we come up with a single anniversary date to the agreement. We have an understanding with the contractors, and there were literally hundreds of them. . . it just wasn't a single contractor experience. . . hundreds of them, in combination, but properly set up so that we could meet and anticipate problems by agreeing on how we would resolve some claimed wrong in the course of the work operation.

MR. MYERS: Mr. Harvey, were the cases where the Allied Council worked so well, were they cost-plus jobs, or were they contract jobs?

MR. HARVEY: A variety. . . a cost-plus. . .

MR. MYERS: I can understand why a cost-plus job would work very well. . .

MR. HARVEY: No, no. . . none of them were cost-plus, sir . . . none of them. There were fixed fees and various arrangements of that

sort. . .

MR. MYERS: They were all contract jobs.

MR. YAREMKO: As is see it, Mr. Harvey, the use of the Allied Council prevented these two principles of every coming into conflict.

MR. HARVEY: Well, only that we renew these day to day irritations that Mr. Jenoves referred to. . . now, Mr. Jenoves takes this position and he stated, and Mr. Hull also, that we want the right to refuse to cross a picket line of a sister organization. Now, if you will go along with this thinking, sir, let us think of this as a single industry. . . two subdivisions of skill which we believe is attractive to all concerned, but we must think of it as one industry. Now, by virtue of the lack of a proper employer-union relationship, each of those has to fend for themselves, and that's why we've had this enlargement of the concept of self-autonomy, have been forced to rely upon their own methods, their own genius to protect themselves, and that's why we have this conflict over the picket line, and so on. Now, I feel that the picket line problem can be resolved internally. That is one of the outstanding things that must be resolved, but with all due respect to law makers, it cannot be resolved by law. So, all we're hoping to do, sir, is turn your gaze in the direction of the practical critical examination of what is wrong and ask the people who are best equipped to find the answers to do so.

MR. MACDONALD: Mr. Harvey, may I ask you a question with regard to your encouraging experience with the Allied Construction Council? To what extent was that experience a product of long jobs, big jobs, and would be difficult if not impossible to work out in the normal short-term duration of building construction projects?

MR. HARVEY: Well, that, sir, I suggest is the area where most ready application could be found. It is infinitely more difficult to regulate a large job of long standing. It is a formula. It is an approach. It is something that. . . the value has been demonstrated, and I don't say it is going to have ready acceptance on the union's side, but our experience points up the distinct possibility and I am sure that even those who are most upset in the building trades about the application of law and restrictions and so on, would, if assured that there was a responsible group of contractors accepting the responsibility

of institutional type of representation, that we could work out these problems in a relatively short period of time. . . with those two attitudes.

MR. MACDONALD: Well, what is the reason for this encouraging experience having emerged only in the instance of large projects of considerable duration and not coming in the short-term projects?

MR. HARVEY: Well, only that these projects were beyond the normal jurisdiction of building trades concentration.

MR. WREN: Well, wouldn't you say, Mr. Harvey, that the Elliott Lake job, for example, was actually a collection of small jobs. . . you just put them all together so that you could look after them, because at one time up there there was heavy construction in the mines and simultaneously there was house-building projects going on. . .

MR. HARVEY: Well, we brought order into chaos there. That is the point. . .

MR. WREN: Well, I would say. . . wouldn't you say, though, that the Elliott Lake job was an example where you took a large number of smaller jobs and made them, for the purposes of negotiation, into a big deal.

MR. HARVEY: That is so.

MR. MACDONALD: But, a large number of scattered small jobs, shall we say in the Toronto area, would not so easily admit being concentrated into a major such as you had in Elliott Lake, and the thing that strikes me is in your experience so far, it was either with Hydro, Sir Adam Beck, or down on the St. Lawrence Seaway, or up in some of the Northern projects, or alternatively in the rather unique experience of, in effect, building a new town, industry, houses and everything else, and it seems to me of some significance that it has not been possible to work out this kind of a relationship with, I imagine, the same contractor, because you must have had some of the same contractors up at Elliott Lake as you have to cope with here in Toronto.

MR. HARVEY: Right. I was just reminded that many of the international representatives came in this morning from the East Coast where it has been worked out. . . the same approach, the same machinery, the same concept of the combination and they are making good progress.

MR. MYERS: This has worked out where?

MR. HARVEY: On the East Coast.

MR. MACDONALD: What kind of a project?

MR. HARVEY: A refinery project. And, here again, a much smaller operation and under the same concept as our Allied Construction Council.

MR. MATHIAS: I think we could be specific there in stating that there was a main contractor involved on the project that we just left, but there will be possibly twenty or thirty other contractors involved and the main contractor would have a third, or roughly fifteen million, and the contracts involving all the administration buildings, and so forth. . . pipe lines, docks that would involve probably thirty-five million. So, the problem is to get an overall project agreement covering all contractors, covering everybody on the project.

MR. MACDONALD: Well, your contention is that if management is willing to accept its responsibility that this kind of thing can be worked out in almost any area.

MR. MATHIAS: Well, if we are going on the same projects we go there where one contractor was perfectly willing to meet with us. . . we have national and international agreements with him. . . others weren't. Now, after two days and two nights, I might say, we have now reached a position where I think we will be going back to meet a contractors' association which will cover the whole project. . . all contractors and all labour employed on the project. . . which is the same principle as the Allied Council.

MR. YAREMKO: Mr. Harvey, I asked this question of Mr. Jenoves. . . is there an opposition on the contractor side to entering into this agreement or is there just a disinterest?

MR. HARVEY: I think their interests suffer. . .

MR. YAREMKO: Do they believe that their interests suffer by entering into this type of an arrangement.

MR. HARVEY: Well, the evidence we've had so far demonstrates to the contrary. . . they are proud of having had an experience of this type and it is relatively recent. . . we have had only a few years practical experience, but in every instance we've had the most surprisingly favourable reaction.

MR. MYERS: Have you tried it in the Toronto area, or the Hamilton area?

MR. HARVEY: No. There is an autonomy here of the unions. They have their own relationship, their own machinery. They deal through the Builders' Exchange and the various unions in Toronto, in all respects, they have machinery to bring about this desirable results that, as yet, has not been accomplished. Now, we started out by saying. . . frankly stating that we don't want to base our whole case on what appears to be a criticism of the other fellow's weakness, but we have at least supported our contention, it isn't just an academic approach to it. . . here we have proof conclusive that it can be done and will be done if government, in any of its agency, will sponsor. . . sponsor a meeting where we can get to the thing and get it back on the rails.

MR. MYERS: I mean, we can't legislate. . . I think your proposal that the Committee recommend a meeting between contractors and unions is the only thing that this Committee can do along the lines mentioned in your brief.

MR. HARVEY: If it is not possible to meet Mr. Jenoves' request to take the trades out from under the Act, then we do urge with all the sincerity we possess that nothing drastic be done on the cracking down procedure until you are satisfied. . . now, I suggest, sir, that this is the sort of thing you have to work at. . . one conference will not provide the answers. . . you must have faith and patience.

MR. MACDONALD: Is it factually accurate to state, Mr. Harvey, that the Allied Construction Council have emerged so far only in areas where there are not Builders' Exchanges?

MR. HARVEY: At Niagara Falls there was a. . . well, that is a frontier. . . one of the oldest groupings of organized labour, and they welcomed our appearance there. . . Cornwall. . . it had a background of organization experience. . . we were welcomed there, and of course, we do have remote projects in the Northwest. . . We will build the Thermal plant at Toronto, Bronte and Fort William. . . they are closely related to organized labour-management experience.

MR. MYERS: Well, shall we go on now with your brief?

It's very difficult to separate the brief into pages. You can't decide. . .

MR. HARVEY: That's true, Mr. Chairman, that's why I am going almost. . .

MR. MYERS: Well, supposing we just have a general discussion and we'll ask whatever we like?

MR. YAREMKO: On Pages 9 and 10, Mr. Harvey, you use the expression. . . "primary success was viewed with skepticism by principals in the industry". . . now, am I right in believing that when you use the word "principals" it meant principals on both sides, or was it just on the one side?

MR. HARVEY: Principals on the contract.

MR. YAREMKO: Principals on the contract.

MR. HARVEY: The movement generally kept an open mind . . . not too much enthusiasm there, of course, to start with, but the main criticism stemmed from honest opinions. . . they were quite honest opinions that this thing would not work.

MR. MYERS: Let us not interrupt each other. Is there anything else, Mr. Yaremko?

MR. YAREMKO: That's it.

MR. WREN: Mr. Chairman, there was a proposal advanced to this Committee some months ago actually that we were to have before us at some future date the Contractors' Association and the Toronto Builders' Exchange, and I think perhaps the Hamilton group. . . I am just going by memory now, but I am going to ask the Secretary to explain that later, but my question at the moment is. . . do you feel that if this Committee were to get these groups before us here for a joint discussion with us on this problem that it might be a step in the direction of. . . solving this situation?

MR. HARVEY: Is it better to let the children to resolve their own differences, or must they rely on a parent. I suggest that you put them off to one side, that every effort be made to condition their thinking prior to the meeting and say -- now, the onus is on you. . .

MR. MYERS: But the moment you put the children there and they throw stones at each other. . .

MR. HARVEY: Well, they have been over the years, but here

is evidence to the fact that there is a growing capacity to resolve their problems.

MR. WREN: Mr. Secretary, what did happen to these. . .

MR. PERKINS: Mr. Chairman, at previous submissions from building contractors and building trades, there was a suggestion from the Chairman of the Committee that these two groups should meet together and discuss certain problems, but on contacting the contractors, I find that they have desired to have an agenda presented to them before they will come forward. They don't want to talk about everything in the industry. . . it's too big a subject. . . they have asked me to mention an agenda. And I imagine the unions probably feel the same way, that if we had a definite agenda with subjects to discuss, that we could get the parties together.

MR. HARVEY: May I, sir, with all due respect, suggest that if the parties are brought together for the purpose of formal debate we will again only see the worst in each. It will be a defensive arrangement and attack. I don't think it would be conducive to arriving at that point where each side will review their troubled backgrounds and decide with assurances that advantage will not be taken, decide to move into this relatively unexplored area of efficient relationship. Give the parties concerned an opportunity, assured of course that they will meet, and that an orderly representative group will meet to deal with the questions. And then I am confident that they can improve the situation. And once the tendency is developed for improvement it snowballs. There are really some miraculous things occur where two enemies over a period of time decide to become friends, or at least establish a relationship and a line of communication. Here the communications are discharged. There is no effective contact, and it's a matter of bringing it back to the point where they can talk to each other frankly without feeling that every word must be measured lest it be used against them

MR. ROWNTREE: Mr. Harvey, the Allied Council functioned by way of a master agreement, and upon the basis of that the Hydro and Elliott Lake set ups that were discussed in the matter. . . I wonder if it would be of some help if we might have a copy of say the Hydro agreement filed with us.

MR. HARVEY: Yes, sir.

MR. ROWNTREE: Because it is out of that that we are trying

to expand our thinking and our philosophy.

MR. HARVEY: Again, may I suggest that we will see that the Committee, sir, is supplied with copies of the agreements, but may I relate an experience. . . We received, in the early stages of this establishment, requests from as far away as California -- tell us, what is the secret -- please send us a copy of your agreement. We sent the copy of the agreement and they wrote back and said -- well, we don't see anything here that would indicate why you should be successful and we should have trouble. Well, it is not in the agreement. . . we will certainly see that the agreements come in. . . but I do want to make that clarification that it is not in the written agreement. . . we don't rely upon a written agreement. We establish a relationship. . . may I suggest, aside from this industry. . . it applies to all industry, that unless a relationship is established, you have only a surface manifestation of words on paper.

MR. ROWNTREE: It goes. . . I agree with what you say, Mr. Harvey. . . but I think it goes just a step deeper than that. The fact is that in the master agreement all of the parties were signatories to the one contract rather than having ten, twenty or thirty separate agreements where the wording was different, different clauses were used. . . everybody was tied together in one general agreement, and I think that there is a key there. Would you not agree with that?

MR. HARVEY: Oh, yes. And I would like to state further that each union preserves its own identity. They are not asked to submerge this very important feature of autonomy. And I would like, if I may, this is not in the brief. . . a number of things not in the brief. . . just recently we have refined or advanced this relationship with private contractors whereby if a member of the council of unions, for any reason, removes himself from this combination concept, he surrenders his bargaining rights. He would have to start afresh. You see, this is what we mean by internal discipline. This is what we mean, and we hope for the same type of development on the employers' side. If he will take steps to, as much as we have, in internal order, you, sir, will not have the problem of this industry posed as it is today.

MR. ROWNTREE: Well, then to follow the thread of my thinking, Mr. Harvey, the Hydro and the Elliott Lake contracts are specific instances,

and we are now trying to develop our philosophy from the specific to the general. Is that correct?

MR. HARVEY: Yes.

MR. ROWNTREE: And our problem is to try and develop some system where what has been accomplished might be attempted on a general . . . or an area basis. Would that be. . .

MR. HARVEY: Yes. That is a good assessment of it. And that is what we are concerned with at the moment. Now, if restraining legislation is enacted it will almost destroy any possibility of bring about, establishing a more efficient relationship, because again they will be forced to rely even more on their own individual efforts to protect themselves. That's why the entire brief was directed at the committee recommending that the principals of this particular industry be asked to sit and do the job that can never be done by legislation.

MR. ROWNTREE: Well, then, let us assume that some results were achieved in the days ahead, and then having achieved a basis, or a plan, isn't it then desirable to give that plan, or the principals behind it some sanction?

MR. HARVEY: Yes, sir.

MR. ROWNTREE: At that stage?

MR. HARVEY: Yes, sir.

MR. ROWNTREE: And then that would be consistent with your reference in your brief to the importance of voluntarily agreed upon matters.

MR. HARVEY: Yes.

MR. YAREMKO: Mr. Harvey, the feature you referred to as "restraining legislation" has been asked for in other fields, not just within the construction industry. . . that type of what you call "restraining legislation" has been asked in other fields, also.

MR. HARVEY: Is it not, sir, a rather sad commentary at this rather critical stage in world affairs that we are forced to rely upon the proposition of more law rather than less? Aren't the best governed people those governed least? Isn't that the measure of our internal strength? Is it not agreed amongst us all that we need have little fear of external threats to our welfare but rather is not the concern for the internal dissension that would destroy

us from within. . . is that not the theme of what we propose here in a major industry. . . a major industry. . . that a strong appeal be made to the principals to bring about a more order and internal discipline in the respective organizations by which we can have less publicity, less demoralization, have greater regard for public interest and internal wealth. . . everything points at the correctness the proposal.

MR. MYERS: Except that people are not made that way. . . we all want more than we are entitled to.

MR. HARVEY: Only that we rely heavily on the demonstrated, sir.

MR. WREN: In all our hearings there has been an amazing lack of references to publications by both sides.

MR. HARVEY: Well, we're part of it, sir. It wont go away if we ignore it.

MR. MYERS: Why do you think a union ought not to be sued? Now, without any law anybody can be sued. . . why shouldn't the union be in the same position as anybody else in that respect?

MR. HARVEY: Well, this goes back to one of the early establishments of our concept of freedom. . . an employee, a workman, is not a profit making organization. . . the whole concept of incorporation and contract law is. . . was designed and is applicable to a limited corporation in a position to make money and who have increasingly, comparatively infinitely greater responsibilty. We can't apply law designed for the regulation of corporations to that of a trade union. We must never lose sight of the fact that we are dealing with a workman, and individual worker who has no substance, he is not a profit making organization, and if we start regulating in that direction, do we not end up with a totalitarian concept. Is that not the very symbol that demonstrates conclusively what difference there is in a free society as against . . .

MR. MYERS: No. . . it would be the same thing as having policemen downtown and not having any policemen. The only time that you would sue a union is when the union did something wrong.

MR. HARVEY: Can we get it down to its simplest form. . . a man is working on a machine in a plant. . . if he makes a mistake and one of

the components is defective. . . do you expect him to pay for that?

MR. MYERS: No. But, if he. . . if the union does an illegal act. . . they break up people's delivery equipment, or things of that sort. . . why shouldn't they be responsible if they do that?

MR. HARVEY: You are dealing with humans, sir, and human reactions. Now, let us keep in mind that it is desirable to have a well regulated society, internal order.

MR. ROWNTREE: Before you go on with that, there is just one thing I would like to ask Mr. Walsh. You're premising your argument on certain exemptions or protection to the basis of a person being sued, and I wonder if Mr. Walsh could give us his comments on that. Is that the correct historical background, that a profit making organization is the basis of the capacity to be sued?

MR. WALSH: No. . . that's not the legal concept of it. . .

MR. HARVEY: Insistment on what's right.

MR. WALSH: Certainly. . . on what's right.

MR. HARVEY: Well, what are the rights? We determine that in law.

MR. WALSH: That's right, but a corporation has some rights, too.

MR. MYERS: If they are infringed, the people who infringe them ought to be subject to the law the same as anybody else.

MR. HARVEY: Yes, but keep in mind, sir, in an incorporation there is limited liability.

MR. MYERS: It is limited to all the money it's got. . . to every asset that it's got.

MR. HARVEY: Yes. That's something impersonal, sir. That is not a man's pocketbook.

MR. MYERS: The union, too, would be limited to whatever funds it had. They'd be just on the same basis. I can't see any difference.

MR. HARVEY: Well, if we are to be treated in the same manner as an incorporated company, then of course, we will have to ask for all of the privileges that are offered to such a company.

MR. MYERS: Well, you have them all now, and more perhaps.

MR. HARVEY: We would have to enter into, if we depart from the concept of the employer and employee, we would then have to ask for an opportunity to sit in on the direction of the industry. Now is that desirable?

MR. MYERS: No. . . no. . .

MR. MACDONALD: Well, Mr. Chairman, it seems to me the differences that flow from these different concepts sometimes could be quite startling. For example, somebody has done a study of some of the major corporations in the United States and found that sixty per cent of them were guilty of, in at least four times, infringements on a criminal level. . . well, normally an individual is considered an habitual criminal if he has been convicted four times. Yet, nobody has ever suggested the corporation could be habitual criminals, but sixty per cent of them are. (LAUGHTER)

MR. MYERS: We're getting far, far afield.

MR. MATHIAS: No, but I think if you go back to your argument there. . . with a limited company, it is possible for a director of a limited company to still own. . . and I know this from personal experience . . . race horses, houses, apartment buildings, and so forth. . . the company could fold. . . now, that man. . .

MR. MYERS: You see. . .

MR. MATHIAS: . . . well, just a minute, Mr. Chairman, sir, if I may. . . that man then has lost his business, we'll say, but he could, and in this instance did, immediately start another company. Now, in the case of a workman. . . if you sue a workman and as the case has happened, I think it is a matter of case record. . . the sheet metal workers in 1907 on the right to strike. . . our officer at that time was sued and had to give up his home, his bed. . . everything. . . sell everything personal in order to even get by. Now, you're taking away from the workman everything that he owns if you have the right to sue.

MR. MYERS: Not sue the workman. . . sue the union.

MR. MATHIAS: You sue the union you are still suing the workmen who are part of the union. They would be liable for it.

MR. MYERS: You wouldn't take anything from the workman.
You are missing the point.

MR. YAREMKO: You couldn't call a workman and the union who acts through him a profit making organization because. . . you take an example . . . in the manufacture of an article, there are certain costs involved in the manufacturing, and then there is some monies left over. . . does it not resolve itself into this whether some of that which is left over, which is all profit, it can be designated profit. . . should all go in the form of dividends, or some of that should go, by virtue of increased wages and fringe benefits to the unions, and then couldn't you resolve this whole problem in a determination of how that extra is to be divided, whether it's to be a profit in the form of a dividend or profit in the form of an increased wage.

MR. HARVEY: Well, is it not a matter of responsibility. . . now we have, of course, a fixed. . . a view of the right of an owner or of management. . . he puts in money and purchases machinery. . . he there then forms a company, he meets all the requirements there. . . now, he, at that point, exercises a great deal of authority over the lives of others. That industry and that machinery would be of no value whatsoever without workers. Now, if the workers' share is to be treated. . . that is, the contribution he makes to the effective operation of that company is to be treated on the same basis as the employer, the money interest and so on, then we will simply say, for our share of this operation we ask for half of its administration. . . we will sit on the board of directors and we will be equally responsible under those conditions. Now, is that desirable? If that's the tendency of thinking, then of course, we have to reorient all of our thinking in relation to what are peculiar rights of management and ownership.

MR. MACDONALD: Go back to 1915.

MR. HARVEY: Yes.

MR. WALSH: May I just interrupt this, Mr. Chairman, I notice on Page 23 that the signature on the bottom above Mr. Harvey's is Mr. I. M. Dodds of the Teamsters', Chauffeurs, Warehousemen, Helpers of America, and not overlooking the fact there have been witnesses here who have sworn to acts that was lived by them. . . I am not saying that they were, but that they were

sworn to. . . why shouldn't they have some rights as described from Galt against that union? I think that's a serious question.

MR. MYERS: As it is now, there is a remedy for the infringement of any right excepting as against the unions.

MR. HARVEY: Well, may I suggest to you then, that we are, in the face of your tiring experience, perhaps attaching undue attention to the need for restraint. Now, everything that has come before you so far in relation to the last mentioned union, on the surface must convince you that something must be done to curtail this. . . I could really use a lot of words to describe what you believe has gone on. . . but, again to come back to this proposal that I made, that we make a clinical examination of the causes. . . now, the surface affliction is there and it doesn't look too good. . . it's a bad looking sore. . . but there is no use putting a bit of ointment on it. . . if we are going to do a statesmanlike job, go to the basis of the problem. I am not here to defend any one union, but I have some very deep convictions concerning the background of the problem of the owner operators in the much maligned teamsters' union. We have had admissions from the biggest contractors, general contractors in Canada that it is more economical to utilize the cut-throat competition of men. . . workmen who may have mortgaged everything they've got to put a very small payment on a truck. . . it is better to operate in that way than to purchase their own equipment for a big project that would wear that equipment out. . . that was a frank admission. Now, we've had experiences, and I am sure Mr. Dodds could relate them by the ream where these owner-operators, through the urge to get employment are utilizing a seven thousand dollar piece of equipment and earning out of it eighteen and nineteen dollars a week. They had nowhere to turn and go. Now, do we approve that. . . is that the desirable end result? And, out of those circumstances you will find a perfectly natural human viciousness. And, isn't that the thing we are concerned with jointly. . . employer and unions alike, to correct the root of the problem, and then we have solved the thing for all time.

MR. MACDONALD: Well, of course, there is another way, Mr. Harvey. . . I think, as a general proposition, the conduct of any union is in good degree provoked and conditioned by the attitude of the employers or the

condition in the industry?

MR. HARVEY: Well, you, as one, Mr. MacDonald, knows that there is. . . and this is not defensive nor is it an excuse. . . but just a moment's objective thinking on this will support the proposition that in the main unions reflect the. . . no. . . unions mirror the character of the employer.

MR. MACDONALD: Here, here.

MR. HARVEY: Now, sir, we could take the rest of the day in concise form, trotting out examples of malpractice verging on the criminal, or irresponsible contractors. Now, I want to differentiate between the substantial people that you find in any interest group, the substantial moral people who want to play the game and do an honest job. . . but in this jungle. . . this industry is a jungle, sir. . . you will find people coming lately with no financial responsibility. . . may I just call on Mr. Demonte to give an example. . . is he present? . . . Oh, he has just left. . . give an example of a recent experience where a contractor without a nickel to his name, by the use of rental equipment, purchasing bonding money to gain a contract, kept his employees waiting five weeks for their wages and paid them fifty cents an hour below the rate that he had contracted to pay. Now, these aggravate. . . we have avoided it. . . we wanted to concentrate on that one perspective, that these things exist.

MR. MYERS: We would like to stop them, if it's within our power, of course.

MR. HARVEY: Is it not better for them to learn how to regulate it themselves? That is the proposal.

MR. MACDONALD: Well, agreed, I think there is a basis validity in that, but meanwhile it seems to me that we have to take some look at, or the legislature or the government has to take a look at a flagrant violation of existing laws. . . otherwise, why have the law there?

MR. HARVEY: Quite right. That's right.

MR. MYERS: I agree with that, too. I don't think that we should make it easier for poor contractors to be able to carry on business in this country at the expense not only of the workers but at the expense of decent contractors either. I think we want to stop that.

MR. MACDONALD: Mr. Chairman, there is one other small item

that I am so curious about that I'd like to ask a question in case I can get an answer. . . Is there any other explanation for the fantastic record of no single grievance going to arbitration in an eight year period.

MR. HARVEY: Yes. We resolved it before it got there. I would like to indicate that we have a formal grievance procedure. . . the grievance pads are spread about, every steward has them. . . the grievance is formalized at its point of origin, and it must go through on time step basis, as in industry. . . this is peculiar in the building trades field. . . this is an innovation. . . and we have always resolved the thing before it got to the point of arbitration. Again, evidence of the fact that we have the capacity to do it.

MR. MYERS: I might say to you now that we have had another group before us who pointed out that the construction industry on the whole in Canada wasn't prepared to take part in the proceedings of the Joint Committee although the unions were, which rather backs up what you state here. Anything else?

MR. WALSH: Shouldn't those building councils hear the other side of this excellent brief by Mr. Harvey?

MR. MYERS: The which?

MR. WALSH: Shouldn't they be here, those councils, to reply to this? I would think you ought to have the other side of this.

MR. MYERS: I think so. We presume. . . we will send the brief. . . The Secretary will send the brief.

MR. WALSH: I would like to hear what reply they have, because if this is a good idea of Mr. Harvey's. . .

MR. ROWNTREE: Mr. Harvey, to advance this voluntary. . .

MR. HARVEY: Well, we hesitated to suggest the channel through which you work or recommend, but we think the Labour Department is closer to the scene and we are only asking for a limited assistance. We don't suggest for a moment that we are going to rely on the Minister or any of his department to bring this about, but only that. . . we can only give assurance to . . . that is, the assurance of our confidence, if there is a follow through.

MR. MACDONALD: But, all you are asking for really is the sponsorship of the meeting.

MR. HARVEY: Right.

MR. MYERS: Well, if there is nothing more, then let me thank you very much indeed, not only you but the great support that you have at this meeting. I think that you made an impression on every member of the Committee. It's a problem. . . and your's is the first brief that seems to even suggest a solution, and we will certainly give everything you say our deepest consideration, and in the meantime, let us. . . accept our thanks.

MR. HARVEY: Thank you, sir.

THE MEETING WAS ADJOURNED UNTIL TEN THIRTY
ON THE MORNING OF TUESDAY, MAY 13th, 1958.



ONTARIO
LEGISLATIVE ASSEMBLY.

THE PROCEEDINGS OF

THE SELECT COMMITTEE
ON
LABOUR RELATIONS

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 2
Parliament Buildings
Queen's Park
Toronto, Ontario

TUESDAY,
May 13th, 1958

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q. C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

MR. J. B. METZLER
MR. LOUIS FINE
MR. F. PAMENTER
MRS. J. GRIMSHAW

PRESENTATION:

ONTARIO DEPARTMENT OF LABOUR SUMMARY OF TIME LAPSE IN
CONCILIATION UNDER THE ONTARIO LABOUR RELATIONS ACT.

THE CHAIRMAN: Gentlemen, it is now ten thirty and I see a quorum. The secretary has brought to my attention a submission presented by Charles R. Ellis, and Open Letter on Canadian Freedom which we will have made part of the record if somebody would so move. Moved by Mr. Reaume and seconded by Mr. Morningstar that this letter be made part of the record of these proceedings.

There is also a letter addressed to myself dated May 9th from the Canadian Press:

"Dear Mr. Maloney:

We have seen the supplementary submission of The Ontario Federation of Labour presented to you yesterday. In view of its reference on Pages 6 and 7 to the Canadian Press and its negotiations in 1950 and 1951 with the American Newspaper Guild, you may wish to have on file the appended statement which accurately sets out what occurred.

Sincerely yours,

(Signed) Gilles Purcell, General Manager."

The statement from the Canadian Press is as follows:

"Regardless of what the Ontario Federation of Labour may imply in its supplementary submission to the Select Committee on Labour Relations the Canadian Press has established the reputation for fairness and accuracy in its reporting of labour matters. The fact that the Canadian Press chose to oppose the American Newspaper Guild in 1950 in no way indicates that C.P. is anti-union. The operating staff of the Canadian Press has been unionized for twenty years. After certification of the Guild as bargaining agent for C.P. editorial staff, Canadian Press, in April 1950 to March 1951 met the Guild Negotiating Committee in a series of eleven meetings most of which were devoted to an effort to work out a contract that would meet Guild demands while leaving C.P. in a position to perform its function as an objective news co-operative. Negotiations were finally broken off by the Guild after C.P. had offered to implement most of the recommendations of a conciliation board. The Guild in November 1951 resorted to court action charging C.P. with not bargaining in

good faith. These charges were dismissed first in Magistrate's court and on appeal in York County Court in June 1952. Subsequently, on petition by the C.P. staff the Labour Board ordered a vote of the staff. This resulted in a 58 to 22 vote against the Guild. The Guild was decertified in March 1953. Any dismissals that occurred in the period mentioned in the Federation submission were the direct result of economies caused by a budget reduction based on the decision of the C.P.'s member newspapers to restrict their spending. The staff was re-employed as vacancies occurred. The so-called press news dismissals did not occur. At one stage when it appeared that a subsidiary company might discontinue a portion of its operations fifteen editors were given protective notice of three months. This notice was later withdrawn.

The statement in the Federation submission about pay and working conditions in C.P. are as unfounded as the charges of unfair labour practices.
Toronto, May 8th, 1958.

(Signed) Gilles Purcell, General Manager."

This morning, gentlemen, we are to hear a presentation from the Deputy Minister of Labour, Mr. J. B. Metzler, on certain conciliation statistics, particularly Time Lapse in Disputes disposed of by the Conciliation system under the Ontario Labour Relations Act for the period 1955-1956, 1956-1957. I don't suppose it would be reasonable to proceed in the usual manner in this matter by reading this very lengthy brief . . . it has been before the members of the Committee now for sometime and I would suggest that if there are any questions that you feel that should be directed to the Deputy Minister, that they should be so directed, or if he cares to explain any part of the brief that does not occur to the Committee that he be at liberty to do so. Does that meet with the approval of the Committee? Or do you suggest that he reads the whole thing?

MR. METZLER: Well, Mr. Chairman, if I may make a few comments as a preliminary to whatever course is to be followed in the discussion of these statistics, I would like to say that we have laid before you this morning a summary of what you have in the very large document, and I should like to suggest that that be read, because I think that that will give you sufficient information on which found any questions dealing with the activities of the Depart-

ment of Labour in respect of conciliation in those two years. Now, I should also like to make one or two remarks in respect of the gathering of these statistics and their reduction to the form in which they appear both as to the actual document and the supplementary charts and exhibits which go along with them. The files on these two years in respect of conciliation were turned over to Mrs. Grimshaw and Mr. Parmenter, who are two economists in the employ of the Department of Labour, and they were asked to set up statistics showing what the time lapse was in respect of our operations in those two years.

At the outset I should like to state to you that I am not a statistician. I feel that I'm somewhat in the same position as anybody else who is a layman and who is confronted with a report which I am sure, I am satisfied it is accurate, but it is a product of people who have been trained in this type of work. The reason I make this observation is because of the fact that there was no guidance given to Mrs. Grimshaw and Mr. Parmenter in setting up the manner in which these statistics would be prepared. They represent their approach to the problem, but they also represent the document which is filed by the Department of Labour and for which I therefore must assume the responsibility of producing it to this Committee. So, from that standpoint it is an official document. On the other hand there are things about statistics that make it a bit difficult. . . for instance, Mr. Fine and I are. . . I wouldn't say in sharp disagreement on some of the things that find their way into the pages of this document, but that is a disagreement more on the impact of settlement than on the manner in which the statistics are prepared. Mr. Fine rightly makes the point that you look at the opening page of the very large document and you will see that 73% of all the cases that came before, came into the Department in conciliations during these two years were settled before the Board of Conciliation operated. Now, of that number I think that the statistics will show that 55% were directly settled by the Conciliation Officers at their first attempt. . . 59%. . . there were something like 6% of the cases where no Board was recommended and in the balance one per cent lapsed and the balance was settled before a Board was fully established. Notwithstanding the fact that this is the case, the economists for the purpose of giving some inflexible guide posts, because I think those are essential, had to establish arbitrary limits as to when one part of a process would start and when

it would finish, so that Mr. Fine is quite right when he says that 73% of the cases were settled actually without the intervention of a Board, but my economists, for the purposes of producing statistics, have to assign, I think it is 91 cases, which you will note in here, to the Board stage. . . I beg your pardon . . . 51 cases. . . because a recommendation for the establishment of a Board of Conciliation had already been made. I hope that you will find these statistics interesting and instructive as to the activity of the Department, and with your permission, Mr. Chairman, I am going to suggest that Mrs. Grimshaw and Mr. Parmeter read the summary which I think will be sufficiently explicit of the work that has been done in these two years.

THE CHAIRMAN: Thank you, Mr. Metzler.

(MRS. GRIMSHAW READS PART I AND MR.
PARMENTER TAKES OVER TO COMPLETE
READING OF SUMMARY.)

THE CHAIRMAN: All right, gentlemen, now rising out of the summary of the time lapse in conciliation, are there any questions arising out of Page 1. . . Introduction? Page 2. . . Page 3. . .

MR. MACDONALD: Well, Mr. Chairman, there is a general question here. . . I'm trying to get it fitted in. . . there was a problem in drawing up your statistics arising from the fact that some settlements were made but the reports didn't get in to the Department, so that that extended period, perhaps unavoidably, is in the statistics. What. . . at what specific period is that that you. . . ?

MR. FINE: May I answer that?

MR. MACDONALD: Yes.

MR. FINE: The officer meets with the parties, draws up a Memorandum of Agreement which is apparently satisfactory to both of the parties at that time. Now, he can't report that as a completed stage of negotiations and he is advised that the matter has been ratified by the membership meeting and by the Board of Directors of the company, and sometimes we find instances where a case will be held six weeks, or eight weeks, before he has been notified that the settlement has been approved. That time is included

in these statistics because he is notified, reports to the Minister and the day on which he reports to the Minister is apparently the day of settlement.

MR. MACDONALD: In other words, this problem is reflected only in statistics at the Conciliation Officer stage?

MR. FINE: That is correct.

MR. WREN: How frequently are these ratifications denied?

MR. FINE: I would say, sir, that in 70% of the cases or more that is the situation.

MR. WREN: No, I say. . . how frequently are ratifications denied by the union or the board of directors?

MR. FINE: Well, I would say that would be in 5% or 10% of the cases.

MR. WREN: Very rare.

MR. FINE: Well, not very rare, but 5 or 10 per cent. Ten per cent, I'd say. But the officer cannot report a settlement as been completed the day he meets with the parties even when he has a completed memorandum. He must wait for ratification. I might say in that instance, that some of the unions, some of the companies are very lax in advising that they have been completed, you have to telephone them, wire. . . write them letters and what have you. The actual time lapse in that period is included in these statistics. That is correct, is it not, Mrs. Grimshaw?

MRS. GRIMSHAW: Yes. They have been included in these statistics.

THE CHAIRMAN: Anything else on Page 3, gentlemen? Page 4, Part 1. . . Time Lapse in Disputes Disposed of at the Conciliation Officer Stage. . . Page 5. . .

MR. JACKSON: There is a question there I would like to ask, Mr. Chairman. . . on the bottom of Page 5 I noticed you say here, and I agree, of course, that attendance at conciliation meetings cannot be compelled. . . now, I am assuming that both parties having reached the stage and the conciliation officer has been appointed. . . now, would it not speed up proceedings greatly if. . . and tend to settle a dispute. . . if both parties knew that once the conciliation officer was appointed they would be compelled to attend the meetings with-

limit?

MR. FINE: That is very difficult, sir, in this respect. You find companies who have numerous plants in the province, and you might find an instance where the officers, not knowing the different assignments, have meetings scheduled for the same day. It would be impossible for them to attend, say, three meetings scheduled in one day.

MR. JACKSON: Well, I am saying within. . . he would have. . . give him a choice within a week. . . because, you've got here outside. . . I recognize it. . . you've got international representatives of unions, you've got also company officials across the country. . . I'm thinking that when they know that a date has been set, within a period of, let us say, two weeks, they must attend. Now, would that not help speed up the proceedings prior to the appointing of a conciliation officer? They know then they are going to have to meet when the date is set.

MR. FINE: Well, all that would happen if we made that mandatory to attend meetings, they would attend, and they would send somebody junior in the company and say -- well, I have no authority, I'll simply have to ask for an adjournment for another week or two or three -- it isn't the attendance, it's the fact that when they do attend they are ready and equipped to bargain.

MR. JACKSON: I see.

THE CHAIRMAN: Yes, but if it was understood that they would not be granted any adjournments. . . the same as lawyers have it impressed upon them by judges that they won't be given adjournments.

MR. JACKSON: That's right. The same idea.

MR. FINE: Well, I think, Mr. Maloney, that if you made attendance mandatory you'd create further difficulty in procedure, in my opinion.

THE CHAIRMAN: But at the same time you'd eliminate this hot box period that so many people complain of because of these long delays that are not, obviously, caused by the Department of Labour but are caused by either of the parties to the dispute.

MR. FINE: That is correct, sir. But, supposing we were to decide that we were going to hold a meeting in the week of October 7th. . .

Now, they know in the Department the week of October 7th there is a convention being held, we'll say, by the Canadian Congress of Labour or the Manufacturers Association, or what have you. . . you can say everything you like about mandatory attendance, they simply won't be there.

MR. JACKSON: Do you think it wouldn't . . . I speak. . . don't forget I'm speaking after the officer has been appointed. . . now, up until that time they have, I assume, entered into some form of discussions even if it is only to come to a disagreement. . . they have entered into discussions. And the discussions have failed. . . if in the back of their mind they knew they were going to a meeting at a certain time once the conciliation officer has been appointed, I can't help but feel that that would tend to speed up. That may not be even at this stage, I may mean prior to that.

MR. FINE: Well, I think my opinion is this, sir, and I so expressed it, that while it might assist the situation, it might also trouble the situation by us having in attendance people not equipped to make decisions, etcetera, by mandatory attendance. You can't summons. . . we don't want to summons a certain person to simply come and attend. I mean, it would satisfy that part of the act if they sent in their junior clerk.

THE CHAIRMAN: Well, what are you going to do if they refuse . . . if they continue to refuse to attend meetings?

MR. FINE: Well, I don't think there is a refusal in that respect. For instance, the officer will write the parties and say he desires to meet on Monday, May 1, and we have already set that up on our work sheets . . . we know that's an assignment to meet on May 1. He's advised that the company are presently negotiating on May 1 in British Columbia or somewhere else and cannot be there, and all we would have, I repeat again, is some junior person in attendance and it would be just a waste of time.

MR. JACKSON: Even if he put it over two weeks, or three weeks?

MR. FINE: It wouldn't make any difference.

THE CHAIRMAN: So that actually the conciliation officer is at the beck and call of when it suits either party to the dispute to meet with him?

MR. FINE: Not quite that way, sir. If we do know, and

we do know most of the companies, and we know that top management is engaged in something else, we realize it would be foolish to make them attend. Now, we have an instance. . . I wont name the company. . . where we were proceeding in thirty-four cases with that particular company, separate and distinct, scattered across the province. There is only one man in that group who can make a final decision, and we had to space our meetings to take care of him and his ability to attend.

MR. JACKSON: Surely this is more important than one individual being able to attend. I could see this could go on forever.

MR. FINE: Well, it doesn't.

MR. WREN: It seems to me it could be weeks, three or four weeks, before you could even get started on this.

MR. FINE: Well, may I explain that, too. That in that particular instance we settle two or three, or five of those cases scattered across the province and usually the other twenty-nine will fall in line.

MR. JACKSON: I think if they have got to the stage where they are going to ask the Department of Labour to send in a conciliation officer, which is the stage they're at, then they must take on certain responsibilities once they have asked the Department of Labour to assist. This business of just letting it go. . . no wonder it goes such a long time. I think once they ask the Department of Labour for a conciliation officer they must, both parties must accept some responsibility.

MR. FINE: I fully agree with you in that respect, and I explained the difficulties that we would be confronted with.

THE CHAIRMAN: But surely the attendance before a conciliation officer is much more important to both parties than negotiations in other parts of the province without a conciliation officer?

MR. FINE: It is not always without a conciliation officer . . . it might be with another conciliation officer.

MR. ROWNTREE: Well, Mr. Chairman, this may be hard to believe, but you will find, sir, that that will be right. You must bear in mind that it is one of the parties only who will request the assistance, so the party wasn't instrumental in calling in the Department and. . . I am in the midst of

that type of situation right now where we've been ten days trying to arrange a meeting, and there is always something else going on.

THE CHAIRMAN: Well, I can see where it can be very easily abused.

MR. JACKSON: I'm getting at maybe a two weeks minimum, or three weeks, I'm not giving a definite date. . . I can't help but feel that. . .

MR. FINE: Well, I would agree with the Chairman, there are cases where this is abused, but generally speaking, and I speak only of those companies that have some background in labour relations and negotiations. . . we don't experience that too frequently. If they do. . . we haven't had any board meetings where they, in fact, don't know what it's all about. . . we have difficulty there, because, in the main, they are trying to get people to act for . . . labour relations consultants. . . lawyers, and what not. Some of you gentlemen who are lawyers . . . if you don't know your previous commitments . . . we can't get you in.

MR. METZLER: Mr. Chairman, I would like to make an observation on another aspect of this thing that doesn't become apparent in these statistics that have been presented. In conciliation there are what are known as key disputes, and you may have, for instance, ten or fifteen cases assigned to conciliation officers. . . fourteen of them you may just set aside and say -- well, we'll go on with John Brown company -- because there is no sense in going on with the other fourteen until something has come out of John Brown, because you know full well that is going to be a pattern for the other fourteen. For instance, to give you an illustration. . . up in the north country you may have a dozen sawmills strung across, say, from Hearst to Cochrane, or someplace like that. The union man made twelve applications for conciliation services. . . whichever one they may process first that may be the one that you'll take, because it is perfectly obvious that whatever result comes out of the one dispute is going to be the pattern for the others, because the same normal impacts of industrial relations is going to fall on the twelve sawmills. . . it's the same type of industry, the same type of products, and you have to accept that the pattern is going to be there. Now, supposing that . . . they come to the officer stage because of the fact that the union will say -- now, we're not will-

ing to hold these off and not make the application, because if we do then we wont be able to take concerted action -- I would imagine that in a case of a group of cases like that. . . supposing that you did have to go through to a Board of Conciliation. . . there was no settlement. . . we would hold a meeting, say, with these other people afterwards, but very likely we would no-board the situation because there isn't much purpose in just rehashing and threshing the same straw over and over again, because you are not going to get any different results.

MR. FINE: And may I add this, too, sir. . . at the present time one of our officers is negotiating with a large company and there will be or perhaps is six applications on behalf of that company. . . now, I know that there is no use assigning the other five cases at all. . . it's a waste of time. . . until such time as we get through with that one particular plant.

THE CHAIRMAN: I can see that.

MR. FINE: In your statistics all that time is charged as time lost when actually and virtually there is no time lost, because when we get an agreement in the main plant the others just go automatically.

MR. METZLER: The same thing holds true, sir, in connection with the automotive industry. If you will go down to the Windsor area you will find a dozen and one feeder plants. . . negotiations in respect of those feeder plants are going to depend in large measure on what might happen in one of the major industries down there to whom they are suppliers. It is obvious that the pattern for the automotive industry is not going to be set by a feeder plant but rather by the man who makes the end product.

MR. FINE: And the time lapse, as it appears in this report, and I'm no statistician, include all the elements that we are now talking about, and if you would break it down into the actual experience that we have the time lapse is not exactly as indicated in this particular report.

MR. WREN: That is ^{from} your experience as Chief Conciliation Officer you would say that it should be left as it is ?

MR. FINE: I beg your pardon ?

MR. WREN: Would you say that it should be left as it is now. . . the procedure of getting. . .

MR. FINE: I would say in respect to time element, I

think I made that statement the first day I appeared before this Committee, that if you were to cut the fourteen days down to, say, seven days or three days, it wouldn't change the procedure that the conciliator is compelled to follow. He is there to endeavour to bring about an agreement, and in this report, if you refer to, I think it is Appendix 1, that such a case that I will give, the General Electric Negotiations, where I met with them for twenty-seven different days . . . they had met on sixty preceding days to my first contact with them, but I stayed with it because I thought we were going to get an agreement. . . we did. Now, if I had stopped on the fourteenth day and said -- gentlemen, it's the end of the days, the fourteenth day is up -- we'd have established seven or eight boards. . . I don't know how many . . . and perhaps not obtain an agreement, and I believe, sir, the function of the conciliator is to get an agreement between the parties wherever it is possible, even if it takes extended time. That's what he is there for.

MR. METZLER: Mr. Chairman, I don't want to unduly hamper the success of this, but Mr. Wren asked a very interesting question. Would you leave the procedure as it is. I would say, in the main, up to the conciliation officer stage, having watched this thing go on now for ten or twelve years, that I would be inclined to recommend that. Because I don't think that by attempting to impose any further stringency on the situation that you are going to gain anything. For my own, and this is truly a personal opinion, I must say that I have no authority to express it, but I will express it, Mr. Chairman. . . it may be there could be a refinement in the processing of conciliation cases in what you might call the first agreement situation, not the renewal situation, but in the first agreement situation. . . if you examine the Act you will note that there's a requirement cast upon the parties through Section 10 to serve a notice to bargain, and they have to meet within the period specified there and commence to bargain. Now, unless they are stalemated after, say, thirty-five days of negotiation, then they can apply to the Ontario Labour Relations Board for conciliation services and there is a procedural delay of seven days.

MR. MORNINGSTAR: How many days does it take. . . ?

MR. METZLER: Well, it takes about seven days to process a case. . . I express it as my own view that it might be that the need for making

application to the Board might be obviated in those circumstances because, after all, these people have just come down from the Labour Relations Board, they've just been certified within, say, a month, and I would say that in the instance of first agreement that the person who's likely to have the most difficulty is going to be the employer because of the fact that he has had no experience with this type of bargaining, or he may not have had any experience. . . and I would think that . . . I know that it is going to add to the burden of Mr. Fine, but it might be that an application or a request for conciliation might go direct to the Minister and just be posted. . . in those cases. On the other hand, on the renewal of an agreement that the procedure of going to the Ontario Labour Relations Board is effective, and effective for more than one reason, because often times you will find included in a collective agreement a clause whereby the agreement says that -- this agreement shall run for a period of one year, and unless notices for expiry are served that it will be deemed to have renewed itself -- now, I think that if there is argument or question as to whether or not the collective agreement has automatically renewed itself, it should go to an impartial board such as the Labour Relations Board where management and labour are represented and they should pass judgment on what conduct of the parties has brought an extreme. That would be the illustration I am thinking about.

THE CHAIRMAN: Page 7, gentlemen. . . The Conciliation Period and the Significance of the First Meeting. . .

MR. WREN: Again beating back to this ratification of agreements, do you think it might be possible to put some time limit on that aspect of it? Have them say yes or no and not have you wait six or seven weeks.

MR. FINE: Well, I think that would be one of the things that we should do. . . make it mandatory for the people to advise us in a certain period of time as to whether or not the agreement has been ratified, because then our time lapse would certainly drop considerably. In fact, Mr. Metzler and I were recently discussing the getting a form and just sending it or giving it to them and asking them to fill it out. There's where a lot of that time lapse comes in, gentlemen, it is waiting for ratification. . . either by the employer or by the union.

MR. WREN: It just seems to be straight procrastination.

MR. FINE: It's carelessness on their part.

MR. WREN: That would have a lot to do with proving these statistics.

MR. FINE: That's right.

MR. WARDROPE: I think that all parties guilty of that, according to this brief, is one of the chief reasons for the delay in these things is not looking after the necessary things that they should look after in time. Now, is there anything that can be done to put some penalty on those that don't?

MR. FINE: Well, Mr. Wardrope, you can't because some lodges would tell you -- we never meet except the last Sunday in the month -- We met with them on the first day of the month and they won't meet until the last Sunday.

MR. JACKSON: Well, they don't really care when they report.

MR. FINE: No, they don't care. . . they've got their settlement. That's all they're interested in.

THE CHAIRMAN: But, supposing ratification is refused, then we're concerned.

MR. FINE: Then we are concerned definitely.

MR. WREN: The point is you don't know until you get it in writing from them whether they have ratified or not.

MR. FINE: Well, where they don't ratify we'll get advised very quickly, they'll ask for further assistance in the thing and we're in again.

MR. WREN: What happens to the jokers that stall for six or eight weeks in ratification and then come along and say -- no, we're not going to ratify?

MR. FINE: That's very rarely in that instance of ratifications. . . where they want further assistance they're not going to sit back and wait six weeks. . . they immediately send you a wire or write to you that the proposal that you had submitted has been turned down.

MR. METZLER: Maybe this would be known, Mr. Wren, that . . . in one particular case that I have in mind, the conciliation officer settled

the dispute four times. . . one right after the other. . . they came to the Memorandum of Settlement and it was kicked out. . . brought them back. . . another week and a hard negotiation. . . another settlement. . .kicked out. This went on four times. . . one case.

MR. FINE: I happened to be the conciliator.

MR. WARDROPE: Who kicked it out?

MR. METZLER: The union membership.

MR. FINE: I would like to make this statement in connection with that case. I was the conciliator and we drew three Memorandums which said -- we agree to recommend to our membership that this settlement be accepted -- and they turned it down three times. Then, on the fourth occasion I changed that -- we agree to recommend and sell to our membership the following proposal -- and that was the last one that that happened to.

MR. WREN: Did they take very long to tell you that it was rejected?

MR. FINE: Oh, no. Within days. Because they needed further help, sir.

MR. WARDROPE: But, Mr. Fine, we hear complaints here about the tardiness of conciliation proceedings, and that is one of the bugbears they have. Now, in reading this brief, it seems to me that all parties, in different cases, tardiness is due to their carelessness and neglect. Isn't it?

MR. FINE: Well, I wish to say this, Mr. Wardrope, that in the main that is correct, but sometimes the conciliation officer himself is responsible for some delay. . .

MR. WARDROPE: Well, that could be all right.

MR. FINE: . . . and I have explained that in Part II. Louis Fine, or Jone Smith, or Mr. Bradley, whoever it may be, has handled a particular case for five years. . . he has worked with that case maybe more than any one man in the service and invariably he will try to go into that situation again. . . because, if you send a new man in he is going to have some trouble. Now, I may have assignments to take me on for two weeks or maybe longer, and I will say to the parties -- I'll gladly act for them provided you will agree that this thing can be delayed for two or three weeks -- and may I cite a particular case where a case started in May, it was delayed until September,

it involved 12,000 people, there was no one lost a darned thing in the delay because the agreement was retroactive in advance. . . they had agreed to retroactivity in advance. The upshot of it all, we signed the agreement in September, the wage rates were retroactive to May, nobody was hurt, but it was due to a chain of circumstances. The one man we had talked to about it before who we had to have at that meeting was in Europe and we had to wait for him to come back. But, I want to say this now that statistics . . . raw statistics or figures . . . they give you a breakdown of time lapse, a breakdown of this, that and the other thing but you have to be able to tell the facts of the thing away from the actual figures. When we have these recurrent delays in this report in time lapse a large part of it, the majority of it is not the responsibility of the conciliation officer in anyway shape or form.

MR. WREN: Would it help any if we were to legislate that in the event of requests for delays in conciliation, sir, is that there would be retroactivity?

MR. FINE: Oh, that's a dangerous thing except for this reason. . . as a conciliator I must say that many an agreement is ratified because of that particular gap itself, or brought about. I think it might help this way. . . if a party refused to attend. . . and we get those gentlemen quite often . . . refuse to attend a meeting requested by the conciliator then he should have the power to summons. . . this is what I would think would be the answer.

MR. JACKSON: That's getting back to what I mentioned.

MR. FINE: Well, that isn't a refusal for a man to say -- well, I'll attend next week. Until we get a total refusal to attend I don't want any part of it at all. We are helpless in that situation, gentlemen, there is nothing we can do.

MR. METZLER: Mr. Chairman, I would like to say that there is a power to subpoena in the hands of the conciliation board, but I must say that in ten or twelve years I've known of no instance that that power has ever been exercised. . . because nobody refuses.

MR. FINE: There's a little difference there. . . what I am talking about is refusal to attend at the officer stage. That's where we should have some authority.

MR. JACKSON: I think so, too.

THE CHAIRMAN: Page 8, gentlemen. . .

MR. WALSH: Mr. Chairman, I wonder if I could just ask Mr. Metzler and Mr. Fine a question. . . there was a professor here from Montreal and some of the labour people also had a submission in that it would expedite matters if instead of the Board and the conciliation officer that we just have one. I didn't want to embarrass by asking what is the policy of the Department. . . Mr. Metzler and Mr. Fine have had a lot of experience and I thought perhaps they could clear this up. . .

MR. FINE: Well, all I can say in respect to that question is that I don't agree with what all the professors said before this Committee. I can't speak in respect to what the government may do as policy.

MR. METZLER: I would say this, and further to what Mr. Fine has said, that you can run yourself into some very obvious difficulties. At the present time, at the officer stage or in the two stages of conciliation procedure, the officer is bound to report to the Minister the items in dispute. He may start off with twenty-five or thirty items in dispute. . . he will clean a lot of them out of the road as a result of negotiations. . . they may be just language changes in the contract and things of that character. . . he reports to the Minister in a confidential report the items that remain unsettled. He doesn't make any recommendation in respect of those items other than to say -- I recommend or I do not recommend the appointment of a Board of Conciliation. If you were to adopt a single stage type of conciliation at the officer stage only, I think you'd find yourself in the position where you would. . . I think the thing would become abortive because it's obvious that the conciliation officer could not be given the power to make recommendations for the settlement of matters in issue, so that his report would become of general moment issued to the press, issued to the parties -- now, I recommend so and so, and so and so -- We would run out of conciliation officers very quickly. They're public servants, and their great strength and their great function is to act as the go-between, the mediators between two parties who are not seeing eye to eye. He has the trust and the confidence of both parties. Because, if he hasn't, he'd better get out of the situation but fast. And his job is to sort these things out with the two parties in

separate meetings. . . argue. . . scramble around with the situation until he gets them up on the step, as you might say, and starting to negotiate. Because it is perfectly obvious that at the outset of most negotiations the parties are not, certainly when they come to us, they are not in what you would call a bargaining position. They haven't bargained the issues down at all. So, if you go to a single stage type of thing, and you say to the officer -- you must make recommendations -- I would say that it wouldn't be any more than about six months when we wouldn't have any conciliation officers left. Because, the parties would say --- well, I'm not going to take that fellow . . . look what he did to Joe Brown and Company. And that is one of the inherent strengths of the two-stage system whether you realize it or not, that you have three persons sitting there. . . you have partisan people sitting at the table at the conciliation board and you have an impartial chairman. Now, they may get together. . . I mean the suggestion has been made at one time or another. . . well, why not just drop the two men on either side of the chairman and let's have the chairman? Well, I threw that out for discussion one time when I was talking to a group of County Court judges. . . I was invited to a session that they were having. . . we were discussing conciliation. . . and, so this matter came up. . . well, let's drop the two side men and we'll just have a chairman. . . and one of the judges said -- no, -- he said, -- it won't work. The fact that the judge or the chairman and the union representative agreed on a set of negotiations or a set of recommendations in a particular situation and the management fellow dissented is not held against the impartiality of the third man in the ring, because the next day he may turn around and agree with the management representative and have the union representative dissenting. So, I think that you've got to accept that these boards will operate best and serve the greatest amount of purpose if they are going to operate, to leave them in their present frame of constitution and let them make their recommendations.

MR. MACDONALD: Well, Mr. Metzler, if your case is valid that the second stage is necessary and that the first stage would become abortive, if you didn't have that second stage there. . . how do you explain that in most jurisdictions they do operate on the one-stage basis?

MR. METZLER: I don't think they do, sir. They certainly

don't do it with the Federal Government. . . the Federal Government. . .

MR. MACDONALD: I'm thinking of the broader field. . . Britain, the United States and so on. . .

MR. METZLER: Oh, I don't think. . . Mr. MacDonald, I'll be honest with you. . . I don't know that they have this type of procedure. . . this is a type of procedure that has been developed in this country, I think. . . incidental to our methods of operation. Now, if you boil the thing down, there's something like sixty-odd cases that I recollect, I may be wrong in my figure. . . where the conciliation officer recommended no-board. . . there was just no use recommending a board -- out. . . that's the end of it. Now, there have been greater uses made of that thing. . . when you boil this whole thing down . . . out of the 852 cases the real incidence of difficulty settles on 155 cases, because those are the cases where the whole thing went the full gamut. . . now, I think it is reasonably valid to say that where a settlement has been achieved by the conciliation officer or by a conciliation board, that you're not going to find any holler from labour or management about that. . . they can't holler over the fact that they have made a settlement. It may take sixty days, for instance, for a conciliation officer to wind up a dispute from the date that it starts at the Board and he finally processes it. . . the question of retroactivity that Mr. Fine has mentioned is one of the issues and will be raised unquestionably, and it will be one of the issues that lies on the bargaining table to be discussed and settled.

MR. YAREMKO: Mr. Metzler, it seems to me that the people who more or less are inclined to drop one of the two stages go on the basis that the two stages are identical, that there's a duplication of services, while actually the duties assigned to the conciliation officer, or the work that he does, is not the same that a conciliation board does. . . although they are both called conciliatory steps, but the conciliation board is something more than a conciliation officer. If they were performing exactly the same type of work there might be some argument for dropping one of those stages, but there is a distinction between the job that is assigned to the two stages.

MR. FINE: That's correct, Mr. Yaremko.

MR. METZLER: I would say so. There is one other point that

I think that we might. . .

MR. MACDONALD: Well, are you going to another point, Mr. Metzler, because I wanted to pick up on what Mr. Yaremko has said, because they say that there is no difference and we've had testimony before this Committee in the last week or so pointing out that while there may originally have been a difference in the function and even in the purpose in the conciliation boards that that has changed significantly with the boards recognizing that their objective is to conciliate not just to listen to the two sides and write a report. In other words, it's increasingly their function is becoming the same.

MR. METZLER: That may be true, but I want to extend the observation on that to this extent. . . when the old I. D. I. A. Act was first . . . came into being back in 1907 and you had the process of the conciliation board possible of establishing it, that was almost like a general holiday. . . you had a half a dozen boards over a period of months, if you had that many. When anybody recites the old Act they always refer to the Alberta coal fields' dispute and how that board was set up. . . it examined and went into all the ramifications of the industry and came down finally with the settlement that was accepted. . . now, how long they took I don't know. . . that this process is not the same at all. . . this is a professional situation and it is being operated, if you prefer, by the trade unions and most of management by experts. When we are processing 228 boards of conciliation in a year that is one a day. . . just like the pills . . . one a day, every working day there is a board established in this province.

MR. MACDONALD: But, we're not talking of the same thing. My point is that originally, within Ontario. . . without going out to the Alberta coal fields. . . within Ontario originally there was a tendency on the part of at least a significant proportion of the boards to listen to the case, to present their reports, not necessarily to indulge in a very vigorous way in conciliation, but now it has been submitted to us, increasingly the judge who is chairman of it, or whoever is the chairman, conceives as his function is to bring these people together and in effect to conciliate, so that he is just a conciliation officer within a different framework.

MR. METZLER: Well, I wouldn't say so.

MR. YAREMKO: Mr. Metzler. . . regardless of whether you

. . . when replying to that, . . . isn't that where we want to go?

MR. METZLER: Oh, yes. We want settlements.

MR. YAREMKO: We want to reach the stage where conciliation boards will perform only that one aspect, . . . of conciliation, . . .

MR. METZLER: Well, you are not always going to get it. . . you're not always going to get it. . . I mean, for instance, a lot has to do with the industrial climate in a particular province. I mean, . . . I would think that our negotiations this year were a little tougher than they were last year. . .

MR. FINE: I would think so, too.

MR. METZLER: I mean, . . . let's not kid ourselves, . . .

MR. WREN: Isn't it a fact that under our procedure, so far, that the conciliation officer stage is one of . . . a. . . the conciliation board is an immediate settlement. . . b. . . if the settlement is not possible to shape the bargaining?

MR. METZLER: That's right.

MR. WREN: To shape the bargaining processes and then turn it over to a board?

MR. METZLER: That's right.

MR. FINE: There's the distinction that I wanted to bring to Mr. MacDonald, is the fact that the conciliator is confronted with twenty-five different items and sometimes sixty as we had the other day. . . now, he can bring about agreement in. . . I've seen it. . . in fifty-nine out of sixty. . . but he can't break the one issue because it's policy, it's history or what have you. Now, in that instance we say, there's a case for the board where the two parties can sit with an impartial chairman, using that term, and he must resolve that one issue. So that the conciliator has reduced the issues that go to a board, his function is to bring about a settlement or reduce the issues, and he does. Not in every case, but in most cases.

MR. METZLER: There is another aspect of this thing that I think you've got to bear in mind and that is this. . . we have in the Act the power conferred on the Minister to accept a recommendation that there be no board of conciliation. In the last period under review, '56, -'57 I think that he exercised that power in something like sixty-two cases. . . which is a pretty

fair number of cases. Now, usually the considerations that will operate is that very little, or further use would be served by going on to a board. . . for instance the parties. . . we've run into a situation like this where the parties, the union and, say, the employer, have got right down and they have settled every issue that has been raised and then a situation has developed where a fellow says -- well, that's fine. Everything is settled now but I'm not going to sign any agreement -- Well, what's the use of going to a board? I mean, you just absolve the parties -- you absolve the union if it is a case of the union from any further attendance on anything, just say -- go ahead, if you want to take him out onto the picket lines, go ahead and do it, now . . . you're entitled to do that -- but, every issue. . . wages . . . increases. . . overtime considerations . . . maybe even considerations of seniority. . .

MR. MACDONALD: Isn't that a straight case of not bargaining in good faith, if you come to agreement and he won't sign?

MR. METZLER: Well. . . I am not going to characterize what that type of thing. . . I am just merely pointing out that I remember at least one situation where that occurred. Or you may have the parties agreeing on everything except the night shift premium, or a night shift differential. . . well, you just say to yourself -- well, we're not going to waste everybody's time by . . . or it may be overtime. . . something that is collateral. . . all the main issues are gone. . . so, we just say -- o.k., -- but, now you have a situation where you have a very important industry affecting a lot of people and you may have bargained a lot of the issues out, and then you have to say to yourself -- now, at this juncture is shall we appoint a board of conciliation, or shall we not. And that is a rather onerous thing to have to contemplate, because if the parties themselves came to you and said -- well, we don't see any further use for conciliation proceedings -- certainly your way would be a lot easier. But where you know. . . the one party says. . . it may be the employer. . . -- well, what's the use of going to a board. . . or the union -- what's the use of going to a board . . . and then you start to figure that there are maybe a thousand or fifteen hundred people standing around on the market place. . . they're involved in this thing and their livelihood is involved. . . it makes you think before you will say that there shall be no further processing and we will now let the parties have

resort to their economic position, because it may very well be that it is important. . . and it gets down to consideration of the individual workman to say. . . at least he's at work, he's earning. . . whether he gets anything out of the whole process or not is another thing.

MR. MACDONALD: Well, Mr. Metzler, the thing that disturbs me about this whole argument, let me for the purposes of discussion, concede your case for the moment that to drop the second stage is going to make the first one abortive and that the thing is working generally satisfactorily, the fact of the matter is that the overwhelming percentage, at least, on the union's side, are convinced that it is too long a process and this is what is creating a great deal of the difficulties. . . you come to a conclusion that very little, if anything, can be done, that the status quo is all right.

MR. METZLER: I didn't make that statement at all. Now, there is another thing. . . I would like to say, you have seen an improvement from '55-'56 and of '56-'57. . . I would hope and think, I haven't got the figures for this last year which has just terminated, but I can assure you that we are intending to keep these figures up on a continuous basis now, in fact, the follow-up that we tried to get. . . and I think that I might be able to give . . . Mrs. Grimshaw might give you some, on 135 cases as to what the final decisions were, but. . . no, I didn't say that you can't improve the process, but I am saying that there is the process.

MR. MACDONALD: Well, let me put it this way, then. . . Where can the process be improved to at least meet the very wide-spread conviction that it is too long and tedious and that it gets hot rather than cools off and all the rest of that.

MR. METZLER: Well, all right. . . again, I stick my neck out and I make my own observation on this thing, and this is an opinion that I just hold myself, and I throw it out to you for consideration. . . I think that a refinement on this would be to no longer require the company and the union, say, to appoint their nominees to the board of conciliation. . . as the first step in the process. I think the first step would be far better if you said to the company and the union -- all right, get together -- they're talking to each other and they have talked to each other. . . they are not strangers. . . --see if you can agree on

a chairman. . . you could cut a little time out there. . . let them, because in the final analysis they are going to discuss with their respective nominees the man who will sit in the middle.

MR. JACKSON: What do you think of the Minister appointing the chairman?

MR. METZLER: He does appoint them where they can't agree.

MR. JACKSON: I mean regardless.

MR. METZLER: Oh, no. . . no.

MR. YAREMKO: They've each got one they want to use.

MR. METZLER: Yes. . . but I would say, all right let them settle with their choice of the chairman first and at the same time, if they agree on a man, then they say -- all right, so and so will sit along side of him. It would cut out about twenty-two days, or whatever the differences is.

MR. MACDONALD: In them appointing their two.

MR. METZLER: Well, they would just write to the Minister and say -- well, we've agreed on the chairman, our man for the board is Joe Blow . . . and the union says -- yes, we've agreed and our man is John Brown -- and we put them on. You see, at the present time the formal procedure requires the appointment of the two members first, then they confer on the choice of the chairman. But, I would say that it would be an idle statement not to acknowledge that the company and the union are going to confer with their respective nominees to the board on who they try to select for a chairman.

MR. MACDONALD: In other words, the two negotiating committees immediately decide on the chairman.

MR. METZLER: No, the two nominees. . . the two parties? Yes, that's right.

MR. MACDONALD: Yes.

MR. METZLER: The union and the company. Now, that would be one. . . I would leave Mr. Fine alone insofar as his processing is concerned, or at least, his method of procedure, because it is an obvious fact that out of the 850-odd cases he's been able to dispose of. . . with, I would say, fair dispatch in regard to everything, something like seventy-three per cent of the cases. It's the twenty-seven per cent that you are really thinking about. Now, I don't know,

Mrs. . . this is something. . . I think that you should look at the time . . . the guiding factor in the conciliation board stage is one of two things. . . the date on which the chairman was appointed, or the date that the first meeting is held. It may be, and I just throw this up as an idea to the Committee, it may be that it would be possible to fix an outside limit from either one or other of those days for the completion of the process, and if it isn't completed by that time. . . fold it up.

MR. MACDONALD: Well, I am going to make this general observation, Mr. Chairman. . . I'm not familiar enough at first hand to judge whether or not that the argument that the status quo is potentially good and it can be refined is correct or not, but I do feel that since the dissatisfaction is so widespread that if we're going to continue with the set up as it now is, we've got to come forward with a number of fairly positive suggestions for refinement. Now, Mr. Metzler has just made one and it strikes me as having considerable validity, but if there are others, and quite frankly I think it's impossible for us on the Committee, no one of which has had an intimate experience in this kind of thing, is to come up with these suggestions. . . it seems to me that we've got to have a number of them and examine them in great detail, and in light of that make recommendations as to where the refinements might be made for improving the present set up.

MR. JACKSON: Well, can I ask a question, Mr. Chairman, along the same lines as Mr. Metzler is talking about. . . I had it marked on Page 19. . . there's a set time limit there for the appointment of a chairman on a choice from the nominees. . . what time would be cut off the twenty-two days if we enforced the time limit set out in the Act?

MR. METZLER: Well, I don't know. . . frankly. . .

MR. JACKSON: You see, I don't see there is anything wrong in the Minister appointing the chairman, because you've got one from each side anyway. . . and coupled with your suggestion, if you either did that or else had the Minister appoint . . . either invoke the time limit as laid out in the Act, or left it up to the Minister. . . you'd do two things if you left it up to the Minister . . . you wouldn't have eight per cent of the chairmen handling fifty-four per cent of the cases. . . that would be one thing. You have a more even spread and

you would also speed up your time here once they had a nominee from each side, then the Minister could appoint his chairman and spread out the work, and probably cut down this twenty-two days in the bargain.

MR. METZLER: Well, it may very well be that the parties themselves had agreed to accept whatever the incidence of time consumption would occur in order to have their particular chairman.

MR. JACKSON: Why is it so important?

MR. METZLER: Oh, well. . . .

MR. MACDONALD: To have a chairman in which both sides have confidence. . .

MR. METZLER: Not only have confidence, but he knows how to go about. . .

MR. FINE: That's practically the same thing I said. . . he's been in there perhaps two or three different times. . . in many instances the parties will say we accept John Smith as our chairman, and Mr. Metzler gets that, or perhaps it comes through me to Mr. Metzler.

MR. WREN: Well, what do the courts do in civil cases . . . just as a matter of interest. . . when there are x number of cases to be heard in Ontario. . . does the Chief Justice direct direct men whom he thinks knows something about the particular case. . .

THE CHAIRMAN: The Chief Justice picks a judge to attend an Assize Court. . .

MR. MACDONALD: However, this is rather an irrelevant point because I've heard judges say many times that they will manoeuvre the timing of a case to get the right judge. . . lawyers say that, because it is one of the most important things in getting the decision they want . . . it is to get the right judge.

MR. FINE: What I was trying to say. . . this is the cause of some of the delay, Mr. Chairman. . . the fact that the parties will say -- well, we'll wait eight weeks if necessary as long as we can get that chairman to take that case. . . eight weeks from now.

THE CHAIRMAN: And both parties will agree to that.

MR. FINE: Oh, yes.

THE CHAIRMAN: I can't see where you'd get the Minister to say -- here's your chairman. . . no, no, not unless the parties disagree.

MR. FINE: They wouldn't agree.

MR. MACDONALD: Well, you'd think another extraneous factor in the whole negotiations, because either union or management could then argue -- well, I never liked this blighter from the beginning, I know he's prejudiced -- and therefore their whole psychological approach is such that you raise hurdles and. . .

THE CHAIRMAN: You'd have a rapidly group of resigning Ministers of Labour if you ever put that in. . .

MR. FINE: And resigning chairmen.

MR. YAREMKO: Well, all this discussion, a lot of it is . . . stems from the basis that there are two stages and that perhaps one should be dropped. . . our various discussions are on the basis that perhaps the board stage should be dropped. . . what is there against dropping the conciliation officer stage and having all these items dealt by the board?

THE CHAIRMAN: He settles most of the cases.

MR. YAREMKO: But, would the conciliation board not have been able to settled those cases just as quickly as the conciliation officer?

MR. FINE: No, Mr. Yaremko, they could not. The conciliation officer is equipped to handle all these things that might be in issue between the parties.

MR. WREN: Well, the technical details.

MR. FINE: The technical details. . . and, furthermore, his knowledge of a lot of things, cases, procedure, techniques, the thinking of the parties. . . even that expression that. . . I've used it in the past. . . well, gentlemen. . . what's the use of going on there's going to be no board. . . in many many cases that one phrase brings the parties together, then we'll sit down and negotiate and get an agreement. And again, Mr. Yarenko, even if the matters go to a board, instead of sitting on fifty matters that might take days on end, two may go, or one, or three, and that's your board. . . it's a repetition, but it's there.

MR. MACDONALD: What percentage of those twenty-seven per

cent that were not settled by the conciliation officer were finally settled by the board? Maybe that's implicit in the figures. . .

MR. METZLER: I don't know that I could. . . have you got anything on that?

MR. FINE: We have a project that we call, Mr. MacDonald, that we call Conciliation After Board's Report where the parties will not agree or accept. . . and I will say in that instance where we have gone in, it would be fair to say that we've brought about agreement in the majority of the cases.

MR. METZLER: I would say in practically every case.

MR. FINE: I would say the majority because I want to leave a little loophole there.

MR. METZLER: Well. . . what I mean. . . when you get to the parties what will happen is that. . . all right. . . they get the board's report and the meet and they look at each other and nothing happens. . . there is no desire to bargain. Well, one or other of them, or maybe both, will say -- well, let's get somebody in, or let's get the Minister to call us together -- so, that often happens and that's about the only time that I ever get in on the conciliation of a dispute where I may be subing for Mr. Daley, or Mr. Fine and Mr. Daley and I in instances in the past, the three of us have gone into conciliation on some major dispute in this province, and we start in and we just pound the situation until we get the parties to agree.

THE CHAIRMAN: That, gentlemen, would appear to bring us up to Page 19 in this brief.

MR. FINE: May I make this one statement, Mr. Chairman, in respect to the 852 cases on Page 1, it says -- In fact, of the 852 disputes disposed of this percentage was derived -- I make this particular statement, that amongst those 852 disputes there may be cases involving fifty different employers involved in the one case. . . in one dispute there were eighty-four employers and it was treated as one case. I want to make that clear that those figures do not portray that was the number of employers involved. . . it was 852 cases and I must repeat, some of them go on twenty employers, thirty, fifty and in one instance eighty-four.

MR. MACDONALD: Well, on Page 20, Mr. Chairman, may I ask

this question. . . if in the average case the time limits set in the legislation are exhausted before the conciliation board processes get going, isn't that the most convincing evidence that some change in the legislation should be made there, either there shouldn't be time limits or they should be changed.

MR. METZLER: I think that it is fairly convincing evidence that the time limits are unrealistic. Let me point out something that should be fairly obvious. . .

MR. FINE: Well, I just want to make this statement in reply to that, Mr. MacDonald. . . I wouldn't eliminate time limits at all because when you have a time limit, be it at our stage or at the board stage, there is certainly an incentive to get within that time limit.

MR. MACDONALD: Well, explain this point, Mr. Fine. . . I agree, you put a law on the books. . .

MR. FINE: Yes.

MR. MACDONALD: . . . if the law in its application in the majority of cases just hasn't an application, the net result is that you bring the law into disrepute, and it seems to me a lot of festering sore conditions you've got in this whole field now is people say -- well, what in heaven's name is the purpose of having a time limit here if you are not living up to it -- .

MR. FINE: Well, I would reply to that, Mr. MacDonald, by saying we try to work within the limits. If we had none, I don't know what would happen.

MR. MACDONALD: Well, I'm not arguing that the limits should be taken out completely, all I am arguing is that if in the average case they are unrealistic and you've exhausted them before you get going, surely they should be changed.

MR. METZLER: Well, Mr. MacDonald, on that I would say that some of these limits are perfectly fine if you had everybody down in the City of Toronto, but you must remember that we've got to conciliate at Cochrane, we've got to conciliate at Red Lake. . . for instance, you have two parties, say, who are located at Red Lake, Ontario. . . you allow five days for them to. . . you send out a notice to, say, a mine and the mine representative and the union representative up there. . . now, you don't know whether that's going to get in

to Red Lake in twenty-four hours or forty-eight hours, or seventy-two hours . . . it depends on where it goes and how it gets there. . . in other words, they are in default by the time they get the notice.

MR. MACDONALD: Well, it seems to me that you are proving my case, though. . .

MR. METZLER: Pardon?

MR. MACDONALD: You're proving my case.

MR. METZLER: No.

MR. MACDONALD: If the law is going to be not lived up to in the average case, then there is something wrong with the law.

MR. METZLER: I would say that the limits which are expressed are ineffective, yes. . . I would say that.

MR. ROWNTREE: Mr. Chairman, isn't it a fact that in this area of labour relations that there has to be some degree of elasticity. I think that the comments that Mr. MacDonald has made give a completely improper light to this thing. . . I think these dates act as a target to shoot at. I think that the elasticity that is applied to them is only applied with the common good and used.

MR. MACDONALD: Mr. Rowntree, you and I agreed, I agree that there must be flexibility, my case is simply this, that if in the average case the time limits are exhausted before they get started, this isn't flexibility, this is reducing the law to absurdity because it can't be lived up to in the average case.

MR. WREN: So you want to extend the time?

MR. ROWNTREE: I would suggest this, Mr. MacDonald, that if you did extend the time there by an overt action by a definite revision of the time period, you're automatically going to extend the whole process of conciliation, you'll just add two weeks to the whole thing.

MR. MACDONALD: We'll have to revise our conception of law if you travel under the assumption that the laws can be violated in the great majority of cases.

MR. YAREMKO: Mr. Chairman, referring back to Mr. Rowntree's statement. . . if we did try to state time limits in the Act to be somewhat

near to what they are in actuality, would that be to the period being drawn out, or would be more closely as Mr. MacDonald is saying more closely adhering to what the Act is saying?

MR. FINE: Well, I made this statement to the Committee before you came in, Mr. Yaremko. . . if you said fourteen, or if you extend it to seventeen, or reduced it to five, it's the function of the conciliator to try and bring about an agreement, and if it takes a day or two more, or three, if it brings that agreement about then he has done what he is supposed to do and time doesn't mean anything.

MR. MACDONALD: Well, you see. . . let me try to illustrate the point I am making on this. . . when we were on the Toll Roads Committee and there are two or three of us here who were on it, it was about the time they raised the speed limit on 400 to fifty-five miles an hour, and one reason why they raised the speed limit was they had clocked without anybody knowing about it and discovered that the average speed limit there was fifty-four point something, so they said -- why have the law being violated all the time -- and they raised it from fifty to fifty-five. Now, I don't know what the proof of long term experience has been. . .

MR. FINE: Wasn't it a success, Mr. Macdonald?

MR. MACDONALD: but the. . .

MR. FINE: I wonder if the net result isn't that they are going sixty or sixty-two?

MR. MACDONALD: Well. . . you're taking the argument out of my mouth. . . what I was going to say is that the first study that was made after they had increased the speed limit to fifty-five, was that the average speed was still fifty-four, so that people instead of consistently day in and day out being violated the law, they brought the law up to date in terms of practice. Now, this is what the Department told us. I'll agree with you that I have some skepticisms as to. . .

MR. WARDROPE: I notice on Page 19 you say about 37% of the instances in 1956-57. . . "The nominees reported to the Minister that they were unable to agree on a chairman, and asked him to choose one for them." What was the outcome of those thirty-seven. . . of the thirty-seven percent

of those cases? Did the nominees agree on the chairman the Minister appointed and it was satisfactory all the way through?

MR. FINE: After the appointment, Mr. Wardrope, he's the chairman. They've got to accept.

MR. WARDROPE: Well, we. . . that's the point, if the Minister was to appoint the chairman all the time. . . I am just wondering how it would work out in thirty-seven per cent of the cases?

MR. METZLER: I think that in conciliation. . . I think you've got to go a long way toward giving the parties as much freedom under the process as you possibly can. If the compulsory processes start, they must follow it in order to get into a position either of having an agreement or of being able to take economic action either by way of strike or lock-out. Now, I would say that I would prefer as far as practicable to let the parties do their own choosing of their nominees, of their chairmen, because you're building some confidence into the situation before the Board actually get's down.

MR. WARDROPE: If they can't agree, then what?

MR. METZLER: If they can't agree why then we find him, and oftentimes I would get a holler from one or the other side -- why did you appoint so and so, as chairman -- why we disagreed on that guy -- I, of course, don't know that. . . I just flipped the list over and saw a man that I thought was a likely looking individual and found out that he could reasonably attend to the situation and I said. . . there is your chairman.

MR. YAREMKO: Mr. Chairman. . . Mr. Metzler, the point that Mr. MacDonald has been following is. . . I would imagine almost everybody who has dealings with labour relations agrees with you that there is flexibility, and the parties who, in one instance, might be very happy that they were able to achieve an agreement three days after the legal date had gone by, in one instance, might on another occasion when things weren't going so well with them then turn around and say -- why don't you stick to your time limits? -- Is it possible that in these instances people are doing two things. . . that they are accepting that their need be flexibility and if they cannot be tied to certain days when it suits them and at the other time use it as an arrow to throw at the legislation that the Department is not abiding by their own date?

MR. FINE: Well, Mr. Yaremko, in all the years I have been engaged in conciliation work I don't remember a union or a company saying to me -- you've exceeded the time allotted to you under the legislation. As long as they sit and know there is hope of an agreement they'll go on working with us. Never have I had anybody say it's gone beyond fourteen days.

MR. ROWNTREE: You usually find that the parties have waived the time requirements. Isn't that so?

MR. FINE: Yes, usually. Their conduct indicates the way. . .

MR. YAREMKO: We've heard time and time again, I believe, the criticisms of the Department advanced. . . they say, now the legislation says seven days and you're lucky if it's before fourteen days. . . the legislation says fourteen and it took thirty days. We have heard that over and over again.

MR. FINE: Mr. Yaremko, that's been said to you, but I repeat again, to my knowledge I have never had any body say to me -- you must complete that case in fourteen days because the law says so. They have never challenged that in my presence. They will say -- let's illustrate the case that I had just recently . . . where the parties said to me -- well, give us a little time to work together -- Now, what's wrong with that? -- Sure, go ahead, how much time do you want? We want ten days -- Go ahead and have your ten days -- work together. And, in many instances, when you get such a situation you can feel pretty well assured that if they haven't completed their agreement when they've worked ten days, the conciliator will complete it in a day afterwards, because there is a desire on their part to get together.

THE CHAIRMAN: Page 20. . . The Conciliation Period at the Conciliation Board Stage. . . Page 21. . .

MR. WREN: Take these final reports. . . could you not save some time there? Can't the three members of the Board get together, if not on the day of the hearing then the following day or the second day after and get their report written? Why should the chairman consume ten or twelve days circulating the report. . . it could be changed.

MR. METZLER: Well, of course, your difficulty is that these

. . . all these people, both the representative of labour and management, and the chairman are engaged in other activities. We don't have too many what you might call full-time people in this field. I only know of two or three that devote a major porportion of their time to this type of work. You will remember Mr. Miller Stewart was before the Committee here a few days ago and he took me to task because of the fact that I didn't like this idea of executive sessions. . . well, I don't. I agree with you, I say this. . . that if they are not making progress. . . first of all a conciliation board that wants to function properly has got to set at least two days, if not three aside for the operation of the Board, because this is the last stage. . . you can't go to work and negotiate to a certain point and say -- well, now, goodbye, we'll be back next week and we'll start and pick up from where we left off -- because you don't pick up from where you left off. . . you find that the people have had a chance to think the thing over and maybe you have to start the whole process all over again. It's a normal human reaction -- oh, I shouldn't have conceded that. . . it's all out. But, now, the thing is that I agree with you, that if the Board could find a way to devote, after the finalization of their hearings, and if they have to make a report, they would sit down and say -- well, here are the issues -- and get some sort of a general record amongst themselves -- maybe that -- well, I don't agree, I want such and so on this point -- and the other man says -- well, I agree to this. . . the chairman says -- well, I'm inclined to agree with Mr. Brown -- if they would get some sort of a record like that while the thing is still fresh in their minds and the arguments, and everything else. . . the discussions. . . and that's it.

MR. WREN: I'm thinking of a case of a little while ago where the board was sitting in Red Lake and the chairman was up from Toronto . . . he might send his report up ten days later to Red Lake and the people up there say -- oh, well, I'm not going to approve of that report -- and takes another five days to get back. . . .

MR. METZLER: Well, what usually happens, and it happens in many instances, there will be more than one report. . . we'll have a majority and a minority report. . .

MR. WREN: Well, the following day you can find that out.

MR. METZLER: You find that out providing you sit down and discuss the issues right there and then with the members. I agree with you that would be a helpful thing for them to do. A goodly number of chairmen will adopt that. . . now, for instance, oftentimes we have got to ask people from southern Ontario to go up to Fort William and Port Arthur to conduct a board of conciliation. . . now, a chairman knows the exigencies of the work, and he will sit down immediately afterwards and hammer out either a report or some sort of an understanding so that they can get a report in while the matter is fresh.

THE CHAIRMAN: Page 23. . . Four Types of Cases completing the Two Level Procedure. . .

MR. WREN: With respect to collective bargaining on this two level procedures. . . I think the work of the conciliation officer at this stage could be accelerated if there was more personnel. . . conciliation officers.

MR. FINE: Sir, I would say this. . . we could perhaps use more conciliators, but I don't think it would accelerate the time lapsed at all. It might be that the conciliator as he moves along in the field of labour relations, negotiations, if we had new men in training they could take up some of the work that is now required to be done by the experienced conciliators, that is, we'll say, investigations and things of that nature. But, it is again the question of the parties, can we get them together. . . when can we get them together. We have what is termed a work sheet, and I would like to exhibit one to you. . .

MR. WREN: I've seen them.

MR. FINE: You've seen them. . . and here is a work week arranged by a conciliator and he's got four cases on that week. . .

MR. WREN: Well, what struck me in the one I saw was it was very very full. . . there weren't any holes in it at all.

MR. FINE: You find "Adjourned", "Cancelled" and what have you. . . and his work week's gone. . . we've lost the work of a conciliator for three days in that week.

MR. WARDROPE: Mr. Chairman, Mr. Fine enlightened me on

something this morning. . . I was under the impression, like a great deal more people, I imagine, that it took a conciliator on every case. . . now, you brought the fact this morning that one settlement applied to eighty-four different organizations. . . so that sort of disagrees with my idea of having a whole group of conciliators and having one on every case. . . that's not so?

MR. FINE: No, I say a conciliator, as I said before, might have occasion to go on with eighty-four different employers as we have, fifty employers, twenty five. . . your printing trades as an illustration, and your hotels and things of that nature.

MR. JACKSON: Do you feel you have enough conciliators now?

MR. FINE: We will never have enough for this reason. You see, any one of our conciliators who has any ability is marked for private industry. We have lost two of our best men in a very short time through that way.

MR. METZLER: We're looking for two or three.

MR. FINE: We are looking for two or three men right now.

MR. WREN: What. . . I know you did give it to us once. . . what is a starting salary for a conciliating officer?

MR. FINE: In my opinion?

MR. WREN: No. What is it?

MR. FINE: It's about \$3,600.

MR. METZLER: Actually, what has been transpiring is this. . . we recruit a lot of people into various inspectorial capacities and some of them exhibit a great deal of intelligence and savvy, they know how to get along with people, and you see that man and, Mr. Fine will come along and say -- I'd like to transfer so and so over from, say, the factory inspection service. . . well, immediately there is a holler goes up from the factory inspection service, but I don't pay too much attention because I feel that if a man is going to be given a better opportunity I can always replace the factory inspector, so we turn around and move him over, but he moves over at his current salary. . . now, that's why I want to refer to this starting salary versus others, because he is going to be given a period of training and he may not work out. Well, if he doesn't work

out I'm not going to knock him on the head and say -- it's too danged bad that you didn't make it -- I'm going to send him back to the factory inspection branch . . . he's had a chance and he goes back onto their staff.

MR. MACDONALD: On the other hand, Mr. Metzler, if you bring a man in at \$3,600 as a conciliation officer and he proves to have all that range of capacity that are required, I think you'll have to raise his salary in an awful hurry or you'll lose him.

MR. WARDROPE: What range of capacities are required?

MR. METZLER: Well, he. . .

MR. WARDROPE: What do you look for, in other words?

MR. METZLER: You look for a guy with a good tough hide and intelligence and sufficient versatility to understand the work that is going on.

MR. MACDONALD: He's got to be a full blood-brother to King Solomon.

MR. JACKSON: And he's got to be independently wealthy, too.
(LAUGHTER)

MR. FINE: Now, if I may answer Mr. MacDonald in respect to that. . . you are quite right, Mr. MacDonald, if you don't move up your conciliators wage-wise, somebody else is going to have a very good industrial relations man.

MR. METZLER: But, they don't stay at \$3,600. . . if a man demonstrates. . . for instance, we had a young fellow in training for the last three or four months. . . now, he's turned out to be a pretty fair sort of a guy . . . I think he's going to make a good conciliation officer. He started at \$3,600, but I don't doubt but Mr. Fine will be knocking at my gates to get him some more money in due course.

MR. MACDONALD: What is the range up?

MR. METZLER: The range goes to \$8,200.

MR. MACDONALD: Are there very many of them stay around long enough to get to the \$8,200?

MR. METZLER: Oh, yes.

MR. FINE: Well, we have one man at \$8,200. . . we have

a number at \$7,900. . . but we have some who deserve more and can't get it because somebody thinks they haven't been in the service long enough.

MR. METZLER: I would say that we. . . there is general recognition of the fact that we have to compete. . . we train the fellows and, as Mr. Fine says, I think we make pretty good industrial relations officers. . . and they hire them away.

MR. MACDONALD: What I am saying. . . what I am fearful is what we're doing is subsidizing the development of industrial relations officers for private industry.

MR. METZLER: Well, Mr. MacDonald, as far as I'm concerned, more power to the man who wants to go out in the field because he'll be a good practitioner. . . he'll know how to weigh both sides of the picture, and let's hope that he continues to exhibit qualities for which we chose him, and he'll be a good man for everybody in the field. I don't believe that we should try to restrain all our conciliation officers. . . I believe that if they want to go out into private industry that that's fine. . . there's got to be a change in this thing . . . you can't say that you're going to stabilize. . . for instance, in the army, the navy and the air force, they take their top men and they move them out because you've got to give room for other people coming up. It's just like Mr. Fine here. . . I could wish that he had a younger brother, you know, with as much knowledge and ability in this field. . .

MR. FINE: If I had one I wouldn't let him in this field!
(LAUGHTER)

MR. METZLER: But, the fact remains that he hasn't and I have got to look forward to the day. . . I am a couple of years his junior. . . to the day when Mr. Fine may decide to hang up his tack. . . yet, this Department has got to continue to operate.

MR. YAREMKO: As a matter of fact, it would be, in my opinion, a wonderful thing if you could continue to turn out a whole mill and create these industrial officers. Isn't it a fact, Mr. Fine, the situation in the industrial . . . in labour industrial relations today is far different from what it was, say, fifteen years ago, because of the professional type of men who have now entered into the field on both sides?

MR. FINE: Well, I would answer that in this way, Mr. Yaremko, that that is a fact. . . that we are now competing, or the conciliator has to compete at these negotiations with top level industrial relations personnel, and it's awfully hard when a man's getting \$4,000 a year and he's got to compete with a man who's getting \$20,000 doing similar work. But, the answer is. . . in the last fifteen years, or ten, the man who is to be a successful conciliator has to know a lot more than the one who was there ten years ago.

MR. METZLER: I would like to add to what has been said by Mr. Fine. . . just this observation. . . that the true conciliation process as we know it has been operating now, I would say since about the 1st of April, 1947, and the reason I make that observation was because up until that day the War Measures Act was in operation and there was no such thing as, say, negotiating a wage adjustment and then applying it, you had to apply to the Regional War Labour Board or the National War Labour Board to support an application for wage adjustments, so the process as we know it, of bargaining and everything else, goes back just about eleven years. That is to say, the modern process.

THE CHAIRMAN: That brings us up to Page 25, gentlemen. . . Part III. . . Time Lapse in Conciliation. . .

MR. MACDONALD: Well, Mr. Metzler says he is going to continue to study that. . . I think. . . we're up in the air as to whether it's a transient or whether. . .

MR. METZLER: As a matter of fact, in addition to this type of thing, we have been collaborating with the Federal Government in the production of statistics on a Canada-wide basis through their Department of Economics and Research, and I don't know whether the report has been released for general public consumption or not.

THE CHAIRMAN: Well, I want to thank you, Mr. Metzler and Mr. Fine, and also the statisticians and the readers for this very enlightening report.

MR. METZLER: Mr. Chairman, I had a document here, that . . . if you wish. . . I'll leave it until tomorrow. . . you remember there was a statement made in respect of the presentation of the supplementary brief of

The Ontario Federation of Labour and I think that Mr. Scott was named in respect of an incident that occurred at Kitchener, Ontario. . . now, Mr. Fine and I asked for a report from Mr. Scott and it is here, I would say that if you will give me a little time tomorrow I will read it into the record at that time.

THE CHAIRMAN: All right.

MR. MACDONALD: It's part of the Fisher's Bakery. . .

MR. METZLER: No. . . this one had to do with discrimination, or certain employees alleged to have been discharged for discrimination by a company at Kitchener, Ontario, but not the Fisher Bakeries. . . I think Mr. Punit of the Rubberworkers . . . So, I have this document and I will. . .

THE CHAIRMAN: Will you make additional copies of it for the members of the Committee?

MR. METZLER: Yes, Mr. Chairman, I'll have a stencil cut on it if you like.

THE CHAIRMAN: Gentlemen that apparently concludes our work for today. Tomorrow, as you know, the Fisher's Bread people are to be back and Mr. McLaughlin and Mr. McGuire, I understand, are to make. . .

MR. FINE: Mr. McGuire is on the conciliation staff. Mr. McGowan, I believe. . . Mr. McLaughlin was the chairman of the board.

MR. METZLER: Mr. McGowan was representing the company . . .

THE CHAIRMAN: Well, I thought they referred to Mr. McLaughlin. . .

MR. FINE: He'll be here tomorrow.

THE CHAIRMAN: Then after them the United Association of Plumbing and Pipe Fitting Industry. So, ten thirty tomorrow sharp, gentlemen . . . particularly those from Toronto.



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LEGISLATIVE ASSEMBLY.

THE PROCEEDINGS OF

THE SELECT COMMITTEE
ON
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SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 2
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
May 14th, 1958.

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HAROLD PERKINS

Secretary

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Committee Counsel

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APPEARANCES:

MR. McGUIRE
MR. L. McLAUGHLIN
MR. I. H. McGOWAN
MR. K. SIMS

PRESENTATION:

CONTINUATION OF FISHER'S BREAD LIMITED HEARING

THE CHAIRMAN: Gentlemen, it is now ten thirty and I see a quorum. This morning we are to have the continuation of the Fisher's Bread Limited presentation to us. You will recall that when these gentlemen appeared before this Committee last week, certain statements were made concerning remarks made by the Conciliation Officer Mr. W. J. McGuire, and also by the Chairman of the Conciliation Board dealing with some dispute that had arisen between management and the employees. If you will look on Page 3 of the brief having to do with the Galt production employees the statement is made. . . "A conciliation board met in Toronto on Monday, January 27th, 1958 at 10:00 a.m. The Chairman urged our company to sign a contract using as one of his most forceful arguments the tendency of this particular union to resort to violence. No contract was signed."

Then, on Page 4. . . in the fourth last paragraph. . . "We believe that violence and the threat of violence are methods which the teamsters' union not only approves but must be directing from behind the scenes, if not openly, and in that belief we are not alone. The Conciliation Officer and the Chairman of the Conciliation Board both emphasized how prudent it would be for the employer to avoid the likelihood of damage to property and violence of other kinds by signing a contract. We believe there ought to be some other way of getting this country rid of such threats and such violence."

Now, we've asked Mr. McGuire and Mr. McLaughlin through the Secretary of this Committee to appear this morning and I understand they are. I direct the attention of the members of the Committee to Section 72 of the Labour Relations Act. . . Sub-section 2. . . "No information or material furnished to or received by a Conciliation Officer under this Act, and no report of the Conciliation Officer shall be disclosed except to the Minister, the Deputy Minister of Labour or the Chief Conciliation Officer of the Department, and the Minister, the Deputy Minister and the Chief Conciliation Officer of the Department of Labour or any conciliation officer appointed under this Act is not a competent or compellable witness in any proceedings or before any court or tribunal respecting any such information, material or reports."

Now, my ruling is that Mr. McGuire, in view of the fact that a very serious allegation has been made concerning his manner of approach in dealing

with this particular dispute, will be permitted to make a statement in connection with the charge that was made against him and the members of the Committee may question him on that statement, but on nothing else arising out of this particular negotiations, and the same applies to the Chairman of the Conciliation Board, Mr. McLaughlin. I understand that Mr. McGowan. . . that Mr. Low, the Company Nominee and Mr. McGowan the company consultant, are also here holding themselves available in the event that anything should be needed from them. In view of the fact that this matter first came under the purview of Mr. McGuire, I would just like to read again. . . where is Mr. McGuire. . . read again to you what was alleged. . . in the brief on page 4. . . it is stated . . . "The Conciliation Officer and the Chairman of the Conciliation Board both emphasized how prudent it would be for the employer to avoid the likelihood of damage to property and violence of other kinds by signing a contract."

Now, do you have any statement to make in connection with this, Mr. McGuire?

MR. SIMS: Mr. Chairman, may I address you for a moment?

THE CHAIRMAN: Yes, sir.

MR. SIMS: My name is Sims, from Kitchener. . . J. K. Sims. . . I have been retained by Fisher's Bread Limited since the last meeting of this Committee, and I just want, if I may, put myself on the record and be permitted, if I see fit, to ask some questions, with your permission.

THE CHAIRMAN: Well, the only questions, as I say, you may ask of this witness or the Chairman of the Board can be directed only to the allegation that was made by your clients concerning their conduct in this dispute.

MR. SIMS: I appreciate that, sir. Thank you, sir.

MR. MCGUIRE: Well, Mr. Chairman and members of the Committee, the only statement I have to make is to categorically deny that I made any such statement which has been alleged.

THE CHAIRMAN: Will you speak a little louder, please?

MR. MCGUIRE: The only statement I wish to make, Mr. Chairman and members of the Committee is that I categorically deny having

ever made any such statement at this conciliation.

THE CHAIRMAN: That is that when these gentlemen allege that you emphasized how prudent it would be for the employer to avoid the likelihood of damage to property and violence of other kinds by signing a contract, you categorically deny having said anything on which such inference could be drawn.

MR. MCGUIRE: The only information that I gave to the company which perhaps might be open to this interpretation, as you realize that if the Minister decides not to appoint a board of conciliation following the conciliation officer stage, that seven days after the notice had been received by both parties that the union is legally free to strike. Now, I did make that statement. That's only in the matter of information which I think is not out of line in regards to conveying the information to the parties of the meaning of the Act.

THE CHAIRMAN: Well, that's provided for by the Act. . . that's what the Act states.

MR. MCGUIRE: That's quite right.

MR. MACDONALD: In other words, Mr. Chairman, this information was conveyed to the parties during the conciliation stage by way of enlightening them as to what followed.

MR. MCGUIRE: At the end of the conciliation, you see. . . there were three conciliations. . . one for Kitchener employees. . . one for Galt employees, outside employees, and one for the inside employees. Now I had the three conciliations. . . one of which, for the inside employees, I recommended to be put through to a board of conciliation, and the other two cases I recommended that no board of conciliation be appointed. Now, it was at the end of the conciliation where my no-board recommendation was to be made that I informed the company of the procedure under the Act. Now, whether the crisis to that is open to misinterpretation by the parties concerned, I don't know.

THE CHAIRMAN: The inference that was left with me, and I think with the other members of the committee because of the language used particularly by Mr. MacDonald was that you told these people in effect that they'd better settle or there was liable to be violence visited upon them.

MR. MCGUIRE: I made no such statement.

THE CHAIRMAN: Any questions, gentlemen? Mr. Sims, any questions?

MR. SIMS: There is just one question. Mr. McGuire, you told them that if you recommended no-board there would be a strike. . . is there any. . .

MR. MCGUIRE: There could be. . .

MR. SIMS: There could be a strike. Was there any discussion as to what might take place during the conduct of a strike?

THE CHAIRMAN: Well, if you're dealing with violence, of course, that's all right.

MR. MCGUIRE: No. There was no mention made at that discussion.

MR. SIMS: No mention at all?

MR. MCGUIRE: No.

MR. SIMS: Thank you. That's all.

THE CHAIRMAN: Any questions, gentlemen of the Committee? Thank you, Mr. McGuire. Mr. McLaughlin. . . Now, Mr. McLaughlin, I understand that you were the Chairman of the conciliation board dealing with this particular dispute.

MR. MCLAUGHLIN: Yes, sir.

THE CHAIRMAN: And, it is alleged, on Page 3. . . having to do with the Galt production employees. . . Page 3 of the brief. . . "A conciliation board met in Toronto on Monday, January 27th, 1958, at 10:00 a.m. The chairman urged our company to sign a contract using as one of his most forceful arguments the tendency of this particular union to resort to violence. No contract was signed." And, again, on Page 4 of the brief. . . "The conciliation officer and the chairman of the conciliation board both emphasized how prudent it would be for the employer to avoid the likelihood of damage to property and violence of other kinds by signing a contract." Do you have any statement to make in connection with these allegations?

MR. MCLAUGHLIN: I said absolutely nothing with reference to violence. I said nothing that could be considered as an implication of that kind. I said absolutely nothing that could be taken as an intimidation to either party.

Violence was not mentioned at any time during the conciliation proceedings, in my presence, by anyone. Now, there were private meetings of the . . . each party to this with their representatives. What was said there I have no knowledge. But, during the conciliation proceedings over which I presided there was absolutely nothing said about violence, and I said nothing that could be, at any time, be considered as even any form of intimidation.

THE CHAIRMAN: Thank you, Mr. McLaughlin. Any questions, gentlemen? Members of the Committee? Mr. Sims?

MR. SIMS: No questions. Mr. Chairman, may I have this understood at this time. . . am I going to have the permission of the Committee to recall my clients on this point in view of these categorical denials?

THE CHAIRMAN: No. I don't see why you should. They have made the statement. They've read it to us and it's submitted in their brief. We're not here to decide a case. . . .

MR. SIMS: I realize that.

THE CHAIRMAN: . . . Your case has already been presented by your clients themselves in the form of their brief. We asked these men to be good enough to hold themselves available this morning to give us their version of what happened. That was the only purpose for which we had this hearing continued. Your people had finished their submission, and I can see no useful purpose that could be served by getting into an argument over it. They say one thing, Mr. McLaughlin, as the chairman of the board, and Mr. McGuire as conciliation officer, both deny that they said anything. . . .

MR. SIMS: But, Mr. Chairman, my clients are desirous of producing many further items of the circumstances in which these statements were alleged to have been made. . . .

THE CHAIRMAN: Well, there is great danger, as you know, Mr. Sims, as a lawyer, of getting into the matters that are referred to in subsection 2 of Section 72. . . if the circumstances were to be gone into here fully both Mr. McGuire and Mr. McLaughlin would be precluded from either affirming or denying, because they are not permitted to give any information as to anything that took place in the discussions in that conciliation or before the conciliation Board.

MR. SIMS: Well, it narrows down, Mr. Chairman, to just a plain statement and a denial and if I am precluded from going into the circumstances then we've got just two diametrically opposed statements made . . . and. . .

THE CHAIRMAN: The unfortunate situation, Mr. Sims, that these people of yours apparently put the cart before the horse and thought they could handle this thing themselves when they appeared before us. If they had the advantage of your wise counsel before this brief was prepared and in submitting it probably some of the things that are in it would not have been contained in it.

MR. SIMS: That may be possibly. . .

THE CHAIRMAN: So, once again the illustration of trying to side-track what we have had referred to us as the "high-priced lawyer" here has probably got them into this predicament.

MR. SIMS: I don't know this. . . but, Mr. Chairman, it seems to me that the Committee hasn't got too much to go on. . . we've got one statement made by two or three businessmen and another statement made by a conciliation officer and a chairman, and my clients would very much like to go into the context and the setting.

THE CHAIRMAN: They went into it very fully, Mr. Sims, and they were questioned on it. And Mr. MacDonald made particular reference of what an "indefensible thing it would be if such things as they alleged were said had been said by the conciliation officer and the chairman of the board." I can see no useful purpose in re-hashing it. They had every opportunity. Nobody precluded them from saying anything they wanted to say. They said they had nothing more to say and they wound up.

MR. SIMS: Of course, at that time, Mr. Chairman, they weren't aware of the fact that these alleged statements would be denied.

THE CHAIRMAN: Well, the fact that they're denied doesn't reopen the matter, Mr. Sims. As you know, there is nothing that has arisen out of this statement made by either Mr. McGuire or Mr. McLaughlin that comes as a surprise to them. It was either going to be an agreement or a denial. Now, your people say that they said it. They say that they didn't say it. It is up to

the Committee after having heard both of them very fully, to decide who is telling the truth.

MR. SIMS: Very well. I must abide by your ruling, Mr. Chairman.

MR. MCLAUGHLIN: Mr. Chairman, I had a call last night from Mr. McEntee, who was a third member of the Board, and he said that it was impossible for him to be here today. . . he'd been out of town and hadn't been notified. . . and he's at an arbitration in the Royal Connaught Hotel, in Hamilton. . . he asked me to make a statement for him. May I be allowed to make that?

THE CHAIRMAN: No. You cannot.

MR. MACDONALD: Mr. Chairman, in light of what we have heard this morning, I think there is another relevant portion of last week's evidence that we should remind ourselves of.

THE CHAIRMAN: What is that?

MR. MACDONALD: On Page 17. . . our Counsel, Mr. Walsh, asked the questions. . . "What did this conciliation officer that the chairman referred to. . . what did he say to you about the. . . and then Mr. Fisher interrupts. . . It is going to be quite difficult to remember the exact words. . . there was the three of us there. . . we were all present and we are all of the same opinion that the wording meant exactly the same thing. Then Mr. Walsh: Well, what was the substance. . . the language you used, if you don't remember the exact words. . . what was the substance? Mr. W. Fisher replied: Well, I could give you more exactly the words of Mr. McLaughlin, because they were more recent, but if a man comes in here and says -- Look, I didn't say that -- I'm afraid I won't turn red in the face because I'm no expert in remembering the exact words the man said. . . but he said -- I don't blame you fellows for being angry. . . he said -- I know you're mad. . . he said. . . but these fellows are tough. . . he said -- you'll have trouble if you don't sign the contract with them. Mr. Walsh: How many of your group heard that? Mr. Fisher: The three of us. The Chairman: But, he didn't say to you to sign the contract, he just said you'd have trouble if you signed the contract? Mr. Fisher: Yes." Now, I think it is most interesting, most intriguing, in light of the flat denials,

that we should have all this presented to us last week.

THE CHAIRMAN: Well, the evidence is there, Mr. MacDonald, as I am sure you will agree, we've heard it very very thoroughly and have given these gentlemen every opportunity to present their brief. Is there anybody else? Mr. McGowan. . . were you on this Board?

MR. MCGOWAN: Mr. Chairman, I acted as industrial relations consultant for the company and, so far, have done all of their negotiating in each situation, including St. Catharines, Galt inside employees and Kitchener sales.

THE CHAIRMAN: Were you present at this conciliation board hearing?

MR. MCGOWAN: I was present at all times that the company was with both the conciliation officer and the conciliation board chairman.

THE CHAIRMAN: Was there anything that transpired in your hearing such as is suggested in this brief from which I read?

MR. MCGOWAN: I would say, Mr. Chairman, that, with all due respect to my clients and the brief, that the statements contained therein in which he was advised that there could be certain things happen were made by myself.

THE CHAIRMAN: Made by you, as the company consultant?

MR. MCGOWAN: As the consultant I thought it was my duty to point out to the company that they had an opportunity to sign an agreement and, in fact, at one time I forwarded them a booklet on the Koehler situation in Wisconsin to show them certain things that had gone on and I felt that it was my duty to set it out in writing to the company, which I have here. . . several copies of a letter I sent to the company. During Mr. McGuire's presence I said to the company that if we do not arrive at a collective agreement and you do not sign an agreement with the union you can expect almost anything. To my recollection and I believe it's quite clear, Mr. McGuire. . . I said to Mr. McGuire -- isn't that so -- or something, and Mr. McGuire's only statement was -- well, sometimes these boys can be rough, or something like that. He didn't even make it an official statement.

THE CHAIRMAN: You're the one who intimidated. . .

MR. MCGOWAN: I'm the one . . . I'm the one, I think, who. . .

to whom you have to attribute most of the statements of violence, because I warned Mr. Fisher that this, this and this could happen, because having been around in this game for sometime I know exactly what may. . .

MR. MYERS: But, you warned Mr. Fisher . . . was the chairman of the board in your hearing?

MR. MCGOWAN: I did not warn Mr. Fisher in front of the chairman of the board. . . no. Most of my warning came. . .

MR. MYERS: You made positive statements?

MR. MCGOWAN: Well, I said something in the presence of the conciliation officer about certain things. I said nothing that I recollect in front of the conciliation board chairman. But I did make statements to Mr. Fisher when we were in discussions privately on many occasions and, in fact, as I said, I set it out in a letter. If the Committee wishes to see the letter I am willing to make it public.

THE CHAIRMAN: Probably it would be better if you would circulate it and we'll have it made part of the record in this case.

MR. MACDONALD: Mr. Chairman, may I ask the gentleman. . . When did you first learn that what you were saying was being attributed to the officials of the Department of Labour?

MR. MCGOWAN: My first knowledge of that came as I was leaving for Montreal one day after the hearing which was held last week, I believe. . . I think it was Wednesday. . . I heard about it shortly thereafter.

MR. MACDONALD: How, conceivably, could the Messrs. Fisher attribute this to anybody other than yourself when it was said only in your presence and not with the other men there?

THE CHAIRMAN: Well, I'm afraid, Mr. MacDonald, I'll have to rule that question out of order. He can't try the mind of any other man. He doesn't know what's going on in the minds of the Messrs. Fisher.

MR. MACDONALD: Well, I think it is rather significant . . . the point, however, that it was made not in the presence of these men, so that the possibility of confusing who said it is seriously minimized.

THE CHAIRMAN: Well, he states that he said it.

MR. WREN: Well, was it you who advocated the judgment

that they'd better sign the contract if they wished to avoid violence?

MR. MCGOWAN: Everything that I have said. . . not everything, but I mean the main gist of what I have said is contained in this letter to Mr. Fisher.

THE CHAIRMAN: We weren't given a copy of that letter by Mr. Fisher. Would you pass it around, please.

MR. SIMS: Is this the letter of January 31st?

MR. MCGOWAN: Yes. . . January 31st. . . yes.

THE CHAIRMAN: Is it the desire of the Committee that this letter be read now, or that it be made part of the record?

MR. MACDONALD: It should be read.

THE CHAIRMAN: All right. This is a letter to Mr. Mowan Fisher, Fisher's Bread Limited, 7 Grand Avenue, South Galt, Ontario, dated 31st January, 1958. Dear Mr. Fisher. . . Re your negotiations with the teamsters. Following last Monday's hearing before the conciliation board I was somewhat disturbed that no agreement was reached. Therefore, I felt that I should set out in detail for you what you can expect from the union and what I feel you should do to avoid what is obviously shaping up. You will recall that several months ago I advised you what was about to happen in St. Catharines, and also told you that I felt it would be better to arrive at an agreement peacefully than under pressure. You are aware, of course, that my observations on St. Catharines came about and we were forced to sign an agreement under pressure. The pressure there was an unlawful strike, but nevertheless it served its purpose for the union. You've now arrived at the situation in Kitchener where the union can strike you legally, and they have established a picket line of persons other than employees. As I understand it your deliveries of bread and other products are continuing. You may feel that the presence of the picket line of persons other than your employees can do you little or no harm as long as your employees are working. However, such may not be the case. The union has placed the picket line there for information purposes and to advise your suppliers that they should discontinue delivering products to your plant. In addition the union hopes to gain the support of the working people to the extent that your sales will go down to a point where it is no longer profitable for

you to operate. Again you may feel that they can accomplish nothing. However, I understand that they have already made their presence felt by getting to some of your suppliers. As time goes on I feel they will keep squeezing you until you have an extremely difficult time to get supplies into your plant. Regardless of how we may look at it, organized labour tends to stick together. The teamsters have a very powerful union and will, through the District Labour Council, solicit the support of other unions by branding Fisher's Bread as unfair. It will take time, but I feel it will creep down through the rank and file people and will eventually have a definite effect upon your business. I strongly recommend to you that we sign an agreement in Kitchener based upon the Memorandum which was previously drawn up for that branch. If you do not feel the terms of that Memorandum were satisfactory, then we could attempt to change them by further negotiations. Perhaps the union would agree to a six-day operation. I firmly believe that unless some move is made the union will bring about enough pressure that you will find it much too difficult to operate. With regard to the inside employees in Galt, I feel again that we should make every effort to arrive at an agreement. You had a wonderful opportunity to do so before the board last Monday, January 27th, but you refused. In fact, we could have arrived at an agreement for two years which would have left you, at the end of two years, with wages lower than those now existing in the baking industry generally. Because no settlement was made last Monday I am sure the Board will recommend a substantial wage increase and the payment of holidays plus other benefits for an agreement lasting probably only one year. Now, I am also sure that the union will strike your inside employees and will bring so much pressure to bear that if you continue to operate you will be forced to sign an agreement on much stiffer terms than could be obtained now. I want you to be very clear on the fact that I, personally, nor any other member of our organization holds any brief whatsoever for any of the unions. However, we cannot ignore the fact that the teamster's union is, by law, the certified bargaining agent for your employees and you are required by law to negotiate in good faith with a view to making collective agreements. There is nothing in the law stating that we must make collective agreements, but based upon the favourable terms upon which the union will sign an agreement with your company, I do not see how you can avoid

it. On Tuesday, January 28th, I had occasion to meet with Henderson in Owen Sound. I chided him about the pickets in Kitchener. He admitted he had hired them and also stated they were going to stay there. He made another statement long the lines that if Fisher's Bread plans to stay in business then they will have to sign agreements with our union. I firmly believe that the union is determined to force you to submit. I am also somewhat concerned that they will succeed after you have fought the union to a point where it has seriously affected your business and you will be in a much less favourable position than you are now. I know and understand your attitude toward the union. You must, however, realize that unions are here to stay and that you are in no different a position from any other company where the union has succeeded in organizing the employees. In fact, it could be clearly established that the union is willing to grant you terms that would leave you in a better position than practically all other baking companies. I strongly recommend that you carefully reconsider your position for the Galt inside employees and Kitchener sales. As far as the Galt sales staff is concerned, I would prefer to leave that lie until sometime later, and you may be able to stay clear of the union in this group. If you concur with my recommendations I could ask the board to reconvene for the inside group at Galt and request the conciliation officer to re-open the Kitchener case. In so doing you would not be losing face with either the union or your employees and I firmly believe you would be much better off in the end. I shall await your reply. . . yours very truly. . . I. H. McGowan. . . Copy sent to Mr. A. Fisher at Kitchener.

Did you receive a reply to that letter?

MR. MCGOWAN: No, I didn't receive a reply, Mr. Chairman.

MR. MYERS: The only thing, Mr. Chairman, is I don't think that letter ought to be part of the record without the consent of Mr. Fisher.

THE CHAIRMAN: Oh, no. We're not bothered with Mr. Fisher's consent at all. I've already ruled that it is part of the record. We're not concerned about Mr. Fisher.

MR. MACDONALD: Well, what is significant about this letter is that it fixes pretty accurately as to where the blame for all this trouble rests.

THE CHAIRMAN: I would think so.

MR. MACDONALD: In this case the high-priced help advice wasn't accepted.

THE CHAIRMAN: Well, I think that concludes the matter, gentlemen.

MR. MCLAUGHLIN: Mr. Chairman. . .

THE CHAIRMAN: Mr. Charles A. Low, is he here?

MR. MCGOWAN: Mr. Low advised me that he may not be able to make it.

THE CHAIRMAN: Yes, Mr. McLaughlin?

MR. MCLAUGHLIN: I wonder if you would ask Mr. McGown directly if I said . . . or anything of any nature similar to what was alleged?

THE CHAIRMAN: If I would ask who?

MR. MCLAUGHLIN: Mr. McGowan. . . if I said anything at that conciliation board. . . he explained about the conciliation meeting with Mr. McGuire. . . I don't think he said anything about that, and I would like you to ask him that.

THE CHAIRMAN: All right. Mr. McGowan, as you have already heard me read this. . . it is alleged. . . that the chairman of the board emphasized how prudent it would be for the employer to avoid the likelihood of damage to property and violence of other kinds by signing a contract. . . and also . . . the chairman urged our company to sign a contract using as one of his most forceful arguments the tendency of this particular union to resort to violence. . . was any such statement made by Mr. McLaughlin, or anything that he did say could such an inference be drawn from it.

MR. MCGOWAN: I did not hear Mr. McLaughlin mention the word violence at any time. I did hear Mr. McLaughlin say that he felt it would be better if we arrived at a collective agreement. Now, that's just the extent of it. Now, one thing more that I must say is this. . . that both Mr. McGuire and Mr. McLaughlin worked very hard to getting us to a collective agreement.

THE CHAIRMAN: That's the duty of a good chairman and a good . . .

MR. MCGOWAN: That's the duty. . . and I must say that I have

sat on boards and I am before boards quite frequently. . . in my opinion this board was not conducted any differently than any board that I sit before, or sit on.

THE CHAIRMAN: Thank you very much. That concludes the matter, gentlemen. Thank you for coming to us.

MR. SIMS: Mr. Chairman, may I ask this one question?

THE CHAIRMAN: Yes, Mr. Sims.

MR. SIMS: Mr. McGowan, I don't know whether I understood you correctly or not, but I thought I heard you say that you had made a remark in the presence of Mr. McGuire that sometimes these boys can be rough. Did you make such a remark? While you were meeting with Mr. McGuire?

MR. MCGOWAN: That was not exactly the statement that I said. My statement was. . . to the effect. . .

THE CHAIRMAN: Just a moment. You realize, of course, Mr. Sims, what you are doing. . . if the confidential remarks that are made in the process of negotiations between a good conciliation officer and both parties to a dispute are to be treated in a manner other than confidential, the whole effectiveness of the conciliation officer is going to be wiped out and we might as well . . .

MR. SIMS: Mr. Chairman, nobody appreciates that more than I do, but the witness has testified, and I thought I caught him correctly, when he said. . . that in the presence of Mr. McGuire he, this witness, made a remark to the effect that sometimes these boys can be rough. . .

THE CHAIRMAN: Yes, I think he said that. Something to that effect.

MR. SIMS: Now, I just wanted to clear. . . to find out whether that is, in fact, what he said.

MR. MCGOWAN: Well, my statement, I believe, as I said. . . a matter of minutes ago. . . was to the effect that more than saying "these boys can be rough" was pointing out some of the things that can occur when a picket line is established and pointing out again the fact that I had given the company a copy of the Koehler booklet which points out a lot of things that can happen.

MR. SIMS: Now, did you make any of those kind of remarks, or remarks to that effect, in the presence of Mr. McGuire?

MR. MCGOWAN: Yes. . .

THE CHAIRMAN: Now, just a moment, I don't think we can commit. . . as I say, Section 72 denies Mr. McGuire the right to even answer this man if he says something. . .

MR. SIMS: But, Mr. Chairman. . .

THE CHAIRMAN: Now, just a moment. . . and we're not going to get Mr. McGuire into that position, Mr. Sims, whether you think for the advantage of your client we should or not. I think it's obviously clear to this Committee what happened in this negotiation.

MR. SIMS: Well, with respect, Mr. Chairman, I think this is very relevant. . . my clients have said that certain remarks were made . . .

THE CHAIRMAN: By Mr. McGuire.

MR. SIMS: . . . this witness has been called and he says that he made certain remarks in the presence of McGuire. Now, I want to find out what McGuire's reaction to those remarks were.

THE CHAIRMAN: Well, I don't think we can go into that. Mr. McGuire has denied making the statement these men say he did, and we're not here to allow you to violate any of the provisions of Section 72 of this Act.

MR. WREN: Am I clear, Mr. Chairman, that Mr. McGowan is accepting responsibility for any statements that were made?

THE CHAIRMAN: That's what I understand.

MR. MCGOWAN: As Mr. Fisher's adviser, I accept the responsibility for statements that were made.

MR. SIMS: Yes, but if they were adopted, Mr. Chairman, inferences by the. . .

THE CHAIRMAN: Thank you, Mr. Sims. You have presented us with a very nice argument, but we've heard it all and I think we're through with the matter now, gentlemen. Thank you very much.

MR. MCLAUGHLIN: Mr. Chairman, may I ask. . .

THE CHAIRMAN: No, Mr. McLaughlin.

MR. MCCLAUGHLIN: No. . . well, I want. . . you are going to make a decision and it's very vital. . .

THE CHAIRMAN: We're not making any decisions.

MR. MCCLAUGHLIN: Well, I'm in labour relations work and I am also chairman of a board of referees under the Unemployment Insurance Act, and if such an allegation was sustained against me, I shouldn't be sitting on those boards. I would like to have this cleared up, particularly in view of the fact that you said. . .

THE CHAIRMAN: Well, now, look it, Mr. McLaughlin, just a moment. . . just a moment. . . we're not here to decide whether you're a good chairman of a board or a good Unemployment Insurance referee, or anything else. . . we're here to study the Labour Relations Act and make certain recommendations, and one allegation that was made was that a conciliation officer and a chairman of the board were intimidating a company to come to an agreement. Now, we've heard their side of it. . . we've heard your denial and Mr. McGuire's, and we have heard Mr. McGowan assuming full responsibility for what was said. Now that should satisfy you as I am sure it satisfies me. Thank you very much.

MR. SIMS: Mr. Chairman, if you should rule against me on this point I'll have to accept your ruling, but my clients are here now. . .

THE CHAIRMAN: We don't care to hear them, Mr. Sims. We heard them once.

MR. SIMS: But, Mr. Chairman, acts are going on now on the premises of this company, and went on last Saturday morning.

THE CHAIRMAN: Probably if they had followed the advice of Mr. McGowan they wouldn't be going on.

MR. SIMS: Well, I mean. . . I think this is. . .

THE CHAIRMAN: I rule that the matter is now closed. Thank you, gentlemen. The next brief that we are to hear is from the United Association of Plumbing and Pipe Fitting Industry.

MR. MYERS: Mr. Fisher tells me that last Saturday there was picketing in front of the Fisher plant at Galt by thirty picketers, that the picketers spat at employees, and I think that if that is so we ought to know it.

THE CHAIRMAN: Mr. Myers, we are dealing only with the brief that was submitted to us by Fisher's Bakers Limited, and we have nothing to do with anything that happened. . . they spit on Nixon, I see, down in Venezuela, and it's no concern of ours. Then, my opinion is this. . . they know what to do if these things happen. . . I'm certainly not going to tell them what to do and neither are you. These men know what to do if some of the things like this are going on, but I don't think that the time of this Committee should be taken up by saying -- here, you mustn't spit on Mr. Fisher or some of his employees.

MR. MYERS: No. . . I think this Committee ought to know if there's unlawful picketing taking place there.

THE CHAIRMAN: It is not up to us to say whether it's unlawful . . . if it is unlawful let them take the process provided by the Act.

MR. MACDONALD: Mr. Chairman, let it be pointed out to Mr. Myers that this has all been brought on by their own actions.

THE CHAIRMAN: Well, I wouldn't say that either, Mr. MacDonald, but if that has gone on Mr. Sims, as a capable counsel, knows what steps they can take. All right, gentlemen. . . Mr. Bruce, sir.



ONTARIO
LEGISLATIVE ASSEMBLY.

THE PROCEEDINGS OF

THE SELECT COMMITTEE
ON
LABOUR RELATIONS

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OFFICIAL REPORTER

W. J. BINKLEY
90 BINSARTH ROAD
TORONTO 5

DATE May 14, 1958

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 2
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
May 14th, 1958.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q. C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

MR. JOHN BRUCE
MR. KENNETH MARTIN
MR. G. M. HORGAN

PRESENTATION:

BRIEF BY THE PROVINCIAL COUNCIL OF THE UNITED ASSOCIATION OF
JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING
INDUSTRY OF THE UNITED STATES AND CANADA.

THE CHAIRMAN: Gentlemen, we will now hear a brief presented by the United Association of Plumbing and Pipe Fitting Industry by Mr. John Bruce, O.B.E. . . . Mr. Bruce, please. Now, the usual practice we follow here Mr. Bruce is that the brief is to be read to us and then we question you upon any subject contained in it.

MR. BRUCE: That's agreed. I have associated with me here the members of the council, Mr. Ken Martin, of London and Mr. G. M. Horgan, the Secretary from Hamilton. In addition to this brief I desire to associate myself with the brief that was presented to your Board last Friday by the International Representatives of the Building Trades.

(MR. BRUCE READ BRIEF IN ITS ENTIRETY)

THE CHAIRMAN: The first nineteen pages, and then on to Page 22 are historical and I don't think it is necessary to ask questions on that aspect of the brief. Starting at the bottom of Page 22 and onto Page 23. . . are there any questions, gentlemen?. . . Page 24. . .

MR. MACDONALD: Which country has a system of compulsory arbitration being tried?

MR. BRUCE: Australia.

MR. MACDONALD: Is that the only one?

MR. BRUCE: Yes. Sweden has a partially compulsory arbitration, but not totally compulsory. But Australia has tried it out.

MR. WREN: Have they abandoned it now?

MR. BRUCE: It's still there, but it is not recognized. Nobody takes any notice of it. They go on strike if they desire. That's why it's no good having laws on the statutes that are not observed.

THE CHAIRMAN: Page 25. . . Temporary and Permanent injunction. . . Mr. Bruce, would this situation be corrected, dealing particularly with the observation you make on Page 26. . . in the second last paragraph. . . "In our judgment no temporary injunction should be granted without both parties to the matter in a labor dispute being present in court, and permitted to make representations on the matter, before a decision is handed down." Now, as you know, in the granting of a temporary injunction, it's by way of an ex parte

motion to the court where the other party is not notified of the application and the decision is based entirely upon the affidavit material that's filed with the application for the injunction. . . when this matter was brought to our attention before, I asked one of the representatives of one of the trade union organizations if that objection might be overcome by our recommending to the Legislature that in the case of seeking temporary injunctions that forty-eight hours notice be given to the representatives of the particular union involved of the application and that they be served with all material to be used and that they be given an opportunity to reply to it by way of affidavit for the information of the court . . . do you think that would correct some of these. . .

MR. BRUCE: It would be helpful. . . here is a case here . . . it is the question of the Fuller Company in Ottawa. . . he goes into court and gets a temporary injunction and then he has all our men arrested and they are charged under the Criminal Code.

THE CHAIRMAN: Well, of course, once a temporary injunction is granted under our present system it's there, and if the terms of it are not obeyed then those who disobey it are subject to the provisions provided by law. But, if the organization involved in the dispute were served with the papers notifying them that an application for a temporary injunction has been made, giving them forty-eight hours notice, and giving them the opportunity to file whatever material they feel should be filed for the information of the presiding judge before he comes to a decision, don't you think that that would greatly. . .

MR. BRUCE: It would greatly answer the question if we'd be notified of what's going on anyhow, and now they walk into court and they get an injunction and then they turn around and arrest our people and have them charged criminally. Well, we have a case. . . surprisingly a case here before the Board. . . some of you men are legal men. . . gave an illustration here before our own Labour Relations Board. . . There was a work stoppage in Kitchener, an injunction was taken out against the unions. . . the strike was declared illegal. Four of our men, employed by one of our contractors, recognized the picket line. Surprising, the court down here decided that it was an illegal strike and two of our men. . . they granted the employer the right to sue two of them, but he didn't sue the other two, and yet they were on strike, and

while the strike was on he kept those men in other employment. How ridiculous can a thing become?

MR. MACDONALD: Well, Mr. Bruce, do I detect that your basic feeling is that you'd like to see injunctions removed altogether so that. . .

MR. BRUCE: Oh, absolutely, I don't think they're necessary. I say here, if we violate the Criminal Code we violate civil law and the Criminal Code will cover it.

MR. MYERS: No, but, if you violate civil rights you can't be sued because of the provision in some other Act says that civil actions against unions are prohibited.

MR. BRUCE: That's what I said. . . we should come back where we cannot be sued nor sue. . . we can't sue nor be sued. We want that right maintained.

MR. MYERS: Well, why not have it so you can sue and be sued?

MR. BRUCE: No. We're not interested in suing anyone. The men are interested in having steady employment. I have had long experience and I tell you this is my judgment over my years of close contact with. . .

MR. MYERS: I am impressed by your experience.

MR. BRUCE: I have not only been on the standpoint as an official, I've been on the standpoint of peace in industry. . . working with Governments trying to work out some system of peace in industry.

THE CHAIRMAN: You see, on the one hand you say, Mr. Bruce, to get away from the Labour Relations Act and come under the Criminal Code, then in the next breath you say -- we'll are necessarily seriously concerned about the interpretations being placed upon our Act in the making of our members parties to an offense in which the employers attempt to bring our officers within the provisions of the Criminal Code, and give a labor dispute the appearance of a criminal act in the eyes of the public. . . in one breath you say you want to come under the Criminal Code and out of the Labour Relations Act. . .

MR. BRUCE: That means they are doing that right now.

THE CHAIRMAN: Well, you don't want it then?

MR. BRUCE: No. I didn't want that.

THE CHAIRMAN: Well, then, what law do you want to operate under ?

MR. BRUCE: We'll work where we've always worked. . . under the civil code, and if we do any act that is criminal we have a right to be punished for it.

THE CHAIRMAN: What civil code are you referring to ?

MR. BRUCE: Our own general civil code.

THE CHAIRMAN: Which civil code ?

MR. BRUCE: The Statutes of Parliament. . . the Statutes of law.

THE CHAIRMAN: Well, the only statute of law that we have concerning. . .

MR. BRUCE: We have our Trade Union Act.

THE CHAIRMAN: The only Statute of Law we have concerning labour relations in this province is the Labour Relations Act.

MR. BRUCE: Oh, no. . . that's why I say. . .

THE CHAIRMAN: Which was passed, incidentally, on the information that's been given to us, originally for the benefit and for the assistance of the trade union movement.

MR. BRUCE: Oh, no.

THE CHAIRMAN: Well, that's the evidence that's here.

MR. BRUCE: Pardon me. . . oh, pardon me.

THE CHAIRMAN: Well, even labour itself has admitted in their submissions to us that when this Act was originally passed they were a weak, untried movement in Ontario, and that this Act was passed to help them.

MR. MACDONALD: Who submitted that ?

THE CHAIRMAN: Oh, there were several of them. . . several of the submissions.

MR. MACDONALD: No union made that statement. You are mixing them up with the Manufacturers' Association.

MR. BRUCE: Mr. Chairman. . .

THE CHAIRMAN: No. . . no. . . no.

MR. BRUCE: . . . it would take sometime to explain it. . .

I happened to be on that National Labour Supply Council. . . that's what broke us up. . . that's what broke the council up. . . was the intention of imposing upon us these particular laws. . . that's when they put in the National Labour Code.

THE CHAIRMAN: Well, is it your contention, Mr. Bruce, that no part of the labour movement should have any legislation passed in connection with it.

MR. BRUCE: That's my own personal opinion, but this I am asking for the construction industry, that we be exempt.

THE CHAIRMAN: Yes.

MR. BRUCE: That we be exempt from the Ontario Labour Relations Act.

THE CHAIRMAN: But, in furtherance of that you say -- everybody else engaged in the trade union movement should be exempt from the Labour Relations Act.

MR. BRUCE: That's my own opinion, yes.

THE CHAIRMAN: Anything arising out of Page 27, gentlemen?

MR. MACDONALD: Well, Mr. Chairman, on this section here, I'd like to ask Mr. Bruce. . . Do you feel that the situation would be improved if Canadian management were represented on the Joint Committee in Washington where, in effect, you have representation for all of labour across the whole continent, but only American management. . . no Canadian management representation. . . Is that the genesis of much of the difficulty?

MR. BRUCE: No. . . as I said here. . . they don't require management has the right there of a worker. . . the laws of your organization lays down what you are empowered to do. . . it doesn't matter whether it's the north pole or whether it's down in South America. . . as far as they're concerned I'm a plumber. The type of work I follow is recognized all over the world because I've worked all over the world. . . worked in several parts of the world anyhow. . . and I know what is expected of me. And, so, if you put Canadian employers on it. . . they must give them Canadian employers on there if they so desire that might help in making the decisions, but there are not that many decisions required.

MR. MACDONALD: No, but perhaps I didn't make myself clear. My understanding of one reason why, within the industry, within the trade unions, you'd be able to sort out these jurisdictional problems, is at the Joint Committee level where management was involved in the decision and was willing to go along with that decision. Now, it has been represented to us that one of the difficulties is that Canadian management is not a party of it, in fact, has indicated that they don't want to be a party. . .

MR. ROWNTREE: Some have.

MR. MACDONALD: Some have indicated they want to be party to it?

MR. ROWNTREE: Piggot suggested it.

MR. BRUCE: No. They don't want to become a party to it, they want to establish a similar body, if you read Mr. Piggot's brief. . . Mr. Piggot wanted one set up here in Canada similar to what we have in the United States.

MR. ROWNTREE: Yes.

MR. MACDONALD: But, this was an alternative to having Canadian representation on a sort of continent-wide body. I mean, it was pointed out by Professor Logan who made the study. I mean, he emphasized it. . . your Joint Committee in Washington is not just an American Committee as far as labour is concerned, . . it is a Canadian Committee, too.

MR. BRUCE: I can be on it if my employer. . . I can go down there. . . my employer. . . my president can substitute me at any time for a member on that Committee.

MR. MACDONALD: But that doesn't happen as far as Canadian management is concerned.

MR. BRUCE: Oh, no.

MR. MACDONALD: Is this the source of some of the difficulty in getting a more amicable settlement in jurisdictional disputes in Canada?

MR. BRUCE: I don't know. . . as I said. . . they're enlarging . . . they're enlarging on the difficulties that arise out of these jurisdictional disputes. They're so few and far between. There's not so many of them.

THE CHAIRMAN: No, but Mr. Bruce, the point is, if there are any do you think it would help the situation if management would permit itself to be represented on this International Board?

MR. BRUCE: Well, that would be for them to speak. I don't think so,

THE CHAIRMAN: Well, do you think it would help to solve the jurisdictional disputes?

MR. BRUCE: It wouldn't.

THE CHAIRMAN: That's it. It has to go to Washington for final decision.

MR. BRUCE: Absolutely. The head of my organization has said -- well, I've no power to send . . .

MR. MACDONALD: But in your brief, Mr. Bruce, you said that the main reason for jurisdictional disputes is that management refuses to recognize these jurisdictions. Now, in some instances it's very clear and in other instances it's not so clear. . . where a new product comes in or something like that.

MR. BRUCE: Well, take for instance Mr. Fuller who is causing us all this trouble. . . he takes labourers and gives them skilled work. He takes labourers. . . he has labourers doing engineers' work. . . he has labourers doing out own particular work. . . then he boasts about it. . . and we should be chased to hell out of the country -- that's what he says here. And yet they're for that kind of tripe, and that's all it is. . . but we know he is determined to try and destroy our unions. . . he says that the . . . he even confessed to the contractors that it is his desire to destroy our trade union movement.

THE CHAIRMAN: Well, don't you agree that there are very very few employers who can be placed in that category now?

MR. BRUCE: Oh, I'll approve of that, Mr. Chairman.

THE CHAIRMAN: I beg your pardon?

MR. BRUCE: I'll approve of that. . . there's very few of the thinking employers who will try that. . . but you'll get the man who stands up. . . this is worse than anything that can come out.

THE CHAIRMAN: Well that, surely. . . a man who makes a statement such as you say this man Fuller. . . that doesn't hurt the trade union movement. That fellow would be considered a crack-pot.

MR. BRUCE: Well, he's got our fellows under indictment.

THE CHAIRMAN: Well, even if he has. . . even if he has. . . that wouldn't hurt the trade union movement, surely.

MR. WREN: What substance is there to a suggestion that has been made once or twice here that sometimes the unions create themselves skills that they are not entitled to? Now, what I mean by that, you've got instances where unskilled workers who apply to the contractor for a job as a carpenter. . . the employer would tell them that they had to have a carpenter union card before he could employ them because in this particular case it happened to be a closed shop. He went down to the union agent and secured his card which entitled him to become. . . or entitled him, rather, to the wages of. . . I don't know how you classify them. . . as a first class carpenter and although he has had perhaps three months experience in industry and no history of apprenticeship. . . Does that happen very often?

MR. BRUCE: Oh, no. . . it occasionally happens. . . it's abused. We have one of the best Apprenticeship Acts in the world in this country and yet we can't get the employers to take apprentices. . . one of our best Acts right here in the Province of Ontario. . . but, as you said, . . this man particularly that I am referring to here. . . he's doing that very same thing. . . he's picking up anybody and classifying them.

MR. WREN: What I meant. . . just as you feel about these things. . . some employers have said, and perhaps there is some validity to it before they could be expected not to hire unskilled workmen, that perhaps the unions in the building trades should be required to guarantee the employer that when they issue them a card which indicates they are a journeyman that they should be fully trained.

MR. BRUCE: Well, speaking for our own organization here . . . there are all these business representatives behind me. . . our law provides that you've got to work five years at the business before you can be accepted into membership, and you've got to pass a satisfactory examination,

because as you know there are municipal codes to govern the installation of the sanitary work and in some places like London and Hamilton, they have also heating codes, and the men have to pass satisfactory examinations before we'll accept them.

MR. WREN: Well, how extensive is that across the whole building trades group?

MR. BRUCE: Oh, pretty general. There are. . . look, we're going to go back to the war situation. . . you can't get away from it. . . and when a large number of the men were returning we agreed with the Government to set up, you know, schools for short-term training. Now, we assisted in that short-term training. . . we gave them the instructions, and when we took them in on six months training and then rated them and gave them, and if they did qualify. . . but the employer knew what he was giving, he knew that he was giving a boy who was coming through the classes, some. . . many of them who had had their education interrupted by the war and then we have completed it. And, so, we have made every effort for to do that. But, I am assuming, by the nature of your question, you know what we've gone into recently. . . we've gone into a tremendous expansion . . . industrial expansion that demanded a pool of labour that we didn't have in this country qualified to do all of the work that was required of them.

MR. WREN: I agree with that, sir. . . but. . .

MR. BRUCE: And before that we had to have a dilution of labour.

MR. WREN: Yes, I am fully aware of what you are saying, and I agree with your suggestion that the employers should be forbidden to go out and hire unskilled workers to perform skilled jobs, but I am concerned with some of their allegations that unskilled workers, by the very fact that they acquire a union card, are permitted to demand the pay of a fully skilled worker and can't perform the job.

MR. BRUCE: The employer. . . my experience of my lifetime anyhow has been that the employers aren't going to keep you if you can't produce. He's foolish if he does. . . if there is a pool of labour that he can draw from. Very few. . . now, mind you, I agree that in certain circumstances there

are men with a full knack and knowledge seeking employment, but again it is terribly infinitesimal, you know, as far as the industry is concerned.

MR. WREN: Well, as an example, I have an uncle in Britain who is quite active in management in the cotton milling industry in Lancashire, and I remember when I was visiting his plant not too many years ago and I asked about the skills of some of his millwrights. He said, I don't have to worry about that. . . in my agreement with the union they bring to me only men who are fully qualified journeymen. . . and he said. . . the union themselves discipline themselves that aspect of . . . when a man comes on my payroll as a journeyman I'm perfectly satisfied that he is. . . I have no fears about that. And, I wondered how extensive that is used?

THE CHAIRMAN: Anything else, gentlemen?

MR. MACDONALD: Well, if there has been a dilution of the skills, it has been in the face of an emergency condition because of the shortage of labour.

MR. BRUCE: That is so. It is straightening itself out now.

MR. MACDONALD: Well, this is a general condition. . . we have six weeks trained teachers. . .

THE CHAIRMAN: Anything else, gentlemen?

MR. WARDROPE: On Page 28 you cite a case that I am very well acquainted with. . . jurisdictional disputes, Mr. Bruce. . . we had one very serious one in my area in the Northern Ontario part of the Province in connection with the Trans-Canada Pipe Line where one union which had been certified all throughout Canada had a minimum wage rate of \$1.25 an hour. . . they came into our area where the men that they were using. . . now, they weren't using them in their usual work, had a minimum wage rate of \$1.45 an hour and that developed into a tremendous jurisdictional dispute with the result that all these men were pulled off the job of clearing the right-of-way for the pipeline.

MR. BRUCE: Oh, I know about that.

MR. WARDROPE: You know about that. . . now, that had to be settled chiefly by the Minister of Railway and the Labour Relations Board, I don't know whether the unions would have set it or not, but my great fear there was that time was going by, these men were losing their work and the employers

were going to come in at the end of the thing when the weather got right and clear the whole thing with bulldozers and these fellows would have lost all their earnings for that period. Now, that was one where it seemed impossible for the two unions to settle it themselves, and it was very necessary there to have the Minister of Labour. . . the Dominion Minister of Labour, and the Labour Relations Act. . . I think that was one case that they were of great use there. . . a great benefit.

MR. BRUCE: I think that was settled without the interference of the Department. . . I think you will find that was settled through the organizations themselves, between the carpenter and the labourer. I know the thing you are referring to. . . the clearing of the tract up north in which the carpenters were claiming the clearing. . .

MR. WARDROPE: Well, the hod-carriers union had the certification. . .

MR. BRUCE: Well, put it the other way. . . they have an agreement with the company, but the bush workers had got the certification. . . that's what caused the trouble. You see, the bush workers had not certification for that type of work, and yet the other man was holding an agreement with these companies and it was national, a national agreement. But, that's been adjusted.

MR. WARDROPE: I know that. That was one place that I felt that it was necessary to have some body giving directions to the unions. . . I mean, apparently they couldn't settle it between themselves. And, furthermore, you see, this one union was going into negotiations in July to get a higher rate than their \$1.45. . . that's what their fear was if they allowed their men to work for \$1.25. Now, it was a very ticklish case, and they lost to our men in that area.

THE CHAIRMAN: Anything further, gentlemen?

MR. YAREMKO: The other day we heard an excellent brief from Mr. Harvey that highlighted the problem and gave a probable solution. As you know, in participating in any major project, perhaps not even a major one, there may be as many as twenty-three unions participating in the construction, and some of the difficulties created in the construction trade union movement is the fact that there are so many individual contracts in respect to men engaged

on a project and that when one group of men who, in trying to negotiate a contract, go out on a strike which is not illegal, other members of other unions engaged on that project, adhering to the principle of honouring a picket line, wont cross the picket line even though they are not directly involved in any dispute at all and have a binding contractual agreement. The suggestion is, as has been tried out in several instances, that in respect of such projects that one contract be entered into between the contractor and a council of the trades involved in that project so that either they are all in the same contract or they are all out of the same contract and nobody is called upon by adhering to his pledge of honouring a picket line, of not having at the same time of breaking his contractual agreement. Have you any comments to make on that suggestion?

MR. BRUCE: I associated myself, before you came in, with that brief. . . I am also associated with that brief.

MR. YAREMKO: But, do you approve of it?

MR. BRUCE: Yes. If you can work that measure of co-operation out it is the solution to the problem. If we can organize the employers to the point of sitting down, we can get settlements.

THE CHAIRMAN: I think, gentlemen, that brings us up to Page 30. . . Page 31. . . Page 32. . .

MR. WREN: Mr. Chairman, in relation to section of the brief. . . in the third last paragraph. . . is it not so that the Provinces are the only jurisdiction. . . have the right to legislate on civil rights?

THE CHAIRMAN: That's right. Mr. Bruce, you're you're not serious in that. . .

MR. BRUCE: Yes I am.

THE CHAIRMAN: Now, just a moment. . . you're not serious in asking us to answer that question?

MR. BRUCE: No. . . no.

THE CHAIRMAN: Because that is a matter clearly for the courts.

MR. BRUCE: That's what I am trying to argue.

THE CHAIRMAN: Well, I would suggest that maybe your organization might strengthen the legislation by bringing it to the attention of the courts.

MR. BRUCE: If I get the chance I'll do it.

THE CHAIRMAN: But you don't want us to decide it here.

MR. BRUCE: Oh, no. I'm just asking you that question because. . . now, take your chief counsel, Mr. Walsh, if he was here. . .

THE CHAIRMAN: He's here. I'm afraid, Mr. Bruce, that. . .

MR. BRUCE: He took me right to the Supreme Court of Canada and he found I was right. (LAUGHTER)

THE CHAIRMAN: Well, irrespective of that, Mr. Bruce, I'm afraid we couldn't answer the question.

MR. BRUCE: I'm not asking you to. I'm asking you to keep it in mind. You may look into it. A number of you are legal men.

THE CHAIRMAN: But, you are putting it to us as a final question to your Committee. . . you don't want us to answer that, though?

MR. BRUCE: Well. . . oh, I want you to investigate it in your deliberations. Let me tell you this. . . some of the best informed attorneys in this country have advised me that these. . . the Ontario Labour Relations Act, or any of these Labour Relations Acts are ultra vires. Now, I don't know. . . you are legal men, and I am just throwing that in that you might just enquire. . .

THE CHAIRMAN: Well, I'm afraid, Mr. Bruce, that as long as it is on the Statute Books we can't question its validity as to whether it's ultra vires or not. That's something that would have to be passed upon by a higher tribunal than a Select Committee.

MR. BRUCE: I'm admitting that.

THE CHAIRMAN: Any further questions? Mr. Bruce, on behalf of the members of the Committee and as chairman of the Committee, we want to thank you very very sincerely for this very able presentation and I can assure you that in accordance with the suggestion made in the last paragraph on page 33 that it will receive our very serious consideration. Thank you, gentlemen.

Now, gentlemen, this Committee will adjourn until tomorrow morning at ten thirty when we are to hear from Professor Bora Laskin, and I might add that I had a telephone call last night from Mayor Edwards of New Toronto saying he would like to appear before the committee in connection with

the brief filed by the Ontario Mayors and Reeves Association. I told him to be here and the members of the Committee would dispose of his request.

MR. JACKSON: Can I file that with the. . .

THE CHAIRMAN: There is a telegram here that Mr. Jackson wants to file. . . Fred C. Anthony, President of the Builders Exchange of London -- The Builders Exchange of London and the managerial representatives of the construction industry endorse the actions of the committee under the chairmanship of J. J. Piggot presenting the brief to the Select Committee on Labour Relations of the Legislative Assembly of Ontario, dealing with the Labour Relations Act. . . Signed, Fred C. Anthony, President, Builders Exchange of London.

Now, gentlemen, members of the Committee, the last sitting of this Committee for the hearing of presentations is tomorrow. There are no other presentations to be heard and tomorrow I would ask yourselves in the meantime to consider what you want to do concerning the preparation of the work that we will have to undertake to prepare our report. My own feeling is that we should adjourn these hearings and adjourn the work of the Committee until, say, the second week of June during which time we can study the briefs and the evidence that has been presented to us and be prepared to try to get down to this matter in an intelligent way. Now, I would ask you all to be prepared to make your suggestions tomorrow at the conclusion of the presentation by Professor Laskin and we hear Mayor Edwards, to let us have your opinion as to what we should do concerning an adjournment and when we should come back.

MR. METZLER: Mr. Chairman, I should like to file with the Committee a statement from the Department of Labour for Canada, Economics and Research Branch, giving some statistics on the number of trade unions and the trade union membership in Ontario within our jurisdiction. I think that that question was raised at some time and we promised to get the information. I have that information now.

THE CHAIRMAN: Would you file it tomorrow morning?

MR. METZLER: Yes, I will, sir.

THE CHAIRMAN: Leave it with the Secretary. Gentlemen, I have also had handed to me the Minutes of the meetings of April 29, 30, May 1

and 2nd, and also May 5, 6, 7, 8 and 9th. I don't know whether you've had an opportunity of reading them, but I would ask you to read them between now and tomorrow morning when the chair will entertain a motion.

The meeting stands adjourned until ten thirty tomorrow morning.



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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 2
Parliament Buildings
Queen's Park
Toronto, Ontario

THURSDAY,
May 15th, 1958

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q. C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
George C. Wardrope
Albert Wren
Hon. John Yaremko
Hon. Robert Macaulay

APPEARANCES:

PROFESSOR BORA LASKIN
MR. J. B. METZLER

PRESENTATION:PRESENTATION RESPECTING THE TAFT-HARTLEY ACT

THE CHAIRMAN: Gentlemen, it is now ten thirty and I see a quorum. We will entertain first a motion with reference to the adoption of the Minutes of the meetings April 29, 30, May 1, 2 and May 5, 6, 7, 8 and 9th. Moved by Mr. Wren and seconded by Mr. Jackson that the Minutes for these sessions be adopted as circulated. All in favour? Carried.

This morning, gentlemen, we are to hear from Professor Bora Laskin with reference to the Taft-Hartley Act. Professor Laskin.

PROF. LASKIN: Well, Mr. Chairman, I filed this analysis two weeks ago and left it with the Committee in the hope that the members of the Committee would have an opportunity to read it and that I would then come back and answer questions touching the matters in the brief or any related matters. So, here I am for that purpose.

MR. MACDONALD: Shall we go over it page by page, Mr. Chairman?

THE CHAIRMAN: Yes, Mr. MacDonald. I don't believe that it is necessary for Professor Laskin to go through the usual procedure of reading this to us due to the fact that he was courteous enough to hand it to us during the week of May 5th.

MR. MACDONALD: Well, on Page 1, Mr. Chairman, if that's where we're beginning. . . or Page 2, rather. . . in "Expressed Exclusions" . . . We have been attempting to come to grips with this question of professional employees. . . as I understand it in the State any group of professional employees may, under the Act, engage in collective bargaining. The only exclusion being that they cannot be included with another union of non-professional employees unless there is a majority of them. . .

PROF. LASKIN: Unless they vote.

MR. MACDONALD: Unless they vote. . . a majority of them vote.

PROF. LASKIN: They are included in a bargaining unit which also covers other employees.

MR. MACDONALD: Well, the question that arose in my mind, Professor Laskin, is that we've had a pretty consistent flow of testimony from the professional people here seeking exclusion from the Act. Now, is there either in your brief. . . I don't think there is as I have read it. . . but, outside

of your brief any information as to what the attitude of professional groups in the States is. . . is it the same adamant stand against inclusion. What has been the experience?

PROF. LASKIN: I can't say. . . I can't speak for the views of the professional associations there. I only know that this provision in Taft-Hartley was only a slight modification of the practice which has previously prevailed under the Wagner Act, under which professional employees were eligible and despite the drastic changes that Taft-Hartley accomplished the only modification that I know whereof is the modification which permits the professional employees to keep themselves apt for bargaining purposes. But, they are not otherwise prevented from bargaining.

MR. MACDONALD: How wide-spread has certification become of professional groups? Have you any knowledge of that?

PROFESSOR LASKIN: No, I haven't any knowledge, no details of that. There is one thing that you have to remember that in the United States you are not compelled to be certified. They get the obligation to bargain may still exist if it is quite obvious, for example, that certain union organizations represent the majority of employees. I suppose in practical terms, if there's any doubt about representation certification will be applied for as it is here, because it is a protection. But the theory isn't quite the same as the one we follow. For us there is no compulsory bargaining unless you're certified. Not a violation of the duty to bargain in good faith with an uncertified union unless they've had a collective agreement and this is a question of renewal.

MR. MACDONALD: Well, maybe it is unfair to pursue this because it is really outside the jurisdiction of what you were doing here. It strikes me as rather strange that all the fears that are held by professional groups in Canada, or in Ontario, with regard to the possibility of even voluntarily, just permissive inclusion under the Act if a group doesn't so want it. In the States either that fear has never been there or else the government has not seen fit to entertain it as being a valid one.

PROF. LASKIN: Of course, the consequence of excluding people from this Act doesn't mean that they can't bargain collectively on a voluntary basis. I don't see anything in the Labour Relations Act where it says

that all collective bargaining rights are taken away unless they are found in the Act.

MR. MACDONALD: No, but that's true of Ontario, too, though.

PROF. LASKIN: Yes. . . well, I am talking about the Ontario Statutes.

MR. MACDONALD: Yes.

PROF. LASKIN: So that the consequence, of course, is that all the prohibitions of the Act which apply to people who are covered by the Act cease to apply to those who are not under the Act, and they are back at the common law, whatever it is.

THE CHAIRMAN: Anything else on Page 2, gentlemen?
Page 2 -- Basic Policies. . . Page 3 . . . Unfair Practices Prohibited to Employers. . .

MR. MYERS: Is there anything in the American Act which gives the employer the right to make whatever statements he likes re his employees?

PROF. LASKIN: Yes. . there was one modifi. . . I dealt with that, as a matter of fact, specially on Page 17. . . Unfair Labour Practices and Free Speech.

MR. JACKSON: But there is nothing in the legislation about it, though?

PROF. LASKIN: Oh, yes, there is something in the Taft-Hartley Act amending the N. L. R. A., and I have quoted it. . . "the expressing of any views, argument, or opinion, or the dissemination thereof, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit".

MR. JACKSON: Is the N. L. R. A. that you're comparing on Pages 3 and 4?

PROF. LASKIN: Yes. That's the N. L. R. A. as amended by Taft-Hartley in 1947.

MR. JACKSON: I just wondered because at the tope of Page 4 under section 5, I don't see anything comparable to section 5 in the U. S. It is

one of the notes I have marked here.

PROF. LASKIN: At the top of Page 4?

MR. JACKSON: Yes. . . Section 5.

PROF. LASKIN: Item 5?

MR. JACKSON: Yes. You see, that's where we in Ontario stress the so-called free speech.

THE CHAIRMAN: That is if you use intimidation.

MR. JACKSON: You deal with that on Page 17?

PROF. LASKIN: No. But it is taken care of in the United States under Item 4 which really should straddle 5. . . if you look at the bottom of Page 3. . . "Interference with, restraint or coercion of employees in the exercise of the rights guaranteed in s. 7, . . . and the rights guaranteed in Section 7 are the rights of self-organization; to form, join or assist labor organizations; to bargain collectively and to engage in other concerted activities. That's just a more pronounced expression of the policy in the American Act than we have in ours, and I tried to point that out at the top of Page 3 where I said that . . . "The U.S. policy is more sharply defined in s. 7", but the net results is the same. They've got it out there in block letters. . . Section 7 is the heart of the Wagner Act and it has been left almost unchanged in the Taft-Hartley Act, surrounded with certain other. . . with one or two other limitations, but that is the essential basis which remains center, and from that of course is where they deal with it. . . what I have said on Page 17 is really that, as I understand the practice of the Ontario Board, they've really arrived at the same position it's a matter of administrative practice as the specification in Taft-Hartley.

MR. JACKSON: Although it's worded differently.

PROF. LASKIN: It's worded differently. But, you see, it's a nice question as to where persuasion ends and coercion begins. I don't care what words you're going to use you're going to be involved in the day to day administrative adjudication of that question.

THE CHAIRMAN: But, the practice seems to be that if there is no intimidation or coercion. . .

PROF. LASKIN: Or promise of benefit, whichever you have.

That it is all right. But, no one sitting here can make an abstract evaluation except in matters that are so obvious that you don't need an expert board to decide about it.

MR. ROWNTREE: But the facts of it.

PROF. LASKIN: Yes, but the new ones, the surface facts. And, of course, you lose information in administrative hearings. . . I mean, nobody knows how these things are said, and that's why you have to leave it to an expert board . . . I assume that's why it's left to the board.

THE CHAIRMAN: Anything else on Page 3, gentlemen? . . . Page 4. . .

PROF. LASKIN: Some of you may be, if I may interject, gentlemen, some of you may be puzzled as the rather lengthy catalogue of unfair practices on the Ontario side of the page as opposed to the American side, but as I say, substantially the matter resolves itself into the expression of language in the Statutes.

MR. ROWNTREE: Professor Laskin, on Page 3 and Page 4. . . Item 6, and similarly on Page 5. . . Item 3. . . the refusal to bargain in good faith. . .

PROF. LASKIN: Oh, yes. Which applies to both sides.

MR. ROWNTREE: Both sides. . . Now, isn't that one of the most difficult points to determine as to whether there is or there is not a refusal? I give you this example. The first proposal. . . it doesn't matter whether it comes from labour's side or management's side. . . they walk into the meeting with their proposals and they lay them on the table and say -- there they are -- I give you that as an example specifically. How would you regard that?

PROF. LASKIN: Not very favourably. But, you see, Mr. Rowntree, there they are. . . and if they then go on to say -- and, we're not prepared to discuss anything else -- I just can't see that as bargaining in good faith. There they are -- we've given the best consideration we can, now if you would like us to explain, well and good -- but, you see, you're in this dilemma, and I've seen this in conciliation and other cases, are you going to pitch your demands or your recalcitrance at a high point and then gradually allow the other side to whittle them away, or are you going to come in with what you might call. . .

I dislike to use the word. . . anonymous bargaining position, but are you going to come in with a reasonable proposal and say that -- we've given the best consideration to this, now why should we protract the procedure because we all know that we're going to come down to this point anyway. . . let's start there. But, the idea of that, say, for an increase of fifty cents an hour and then getting down on your knees and saying you'll take four makes me wonder about the quality of the bargaining on one side and the idea of the employer say -- not a red cent -- and yet prepared to give fifteen makes me wonder about the quality of bargaining on the other side. But, again, this is a formula and you are not going to be able to improve on it. . . it is a general expression of policy. . . unless you are prepared to set out in detail what shall constitute a refusal to bargain in good faith.

MR. ROWNTREE: These are the things that go to the general unrest in the picture. I give you a further example where both labour and management have their own publications and my experience in the past six months has shown a definite trend toward a fear, a great concern as to how to approach this point you were describing of opening up the negotiations, because of what the other side will do in its publication.

PROF. LASKIN: You see, this is part of the very process of negotiation. I mean, you hammer this out on the anvil of pressure and counter-pressure, and I don't think you gentlemen are ever going to get negotiations down to the level of a Sunday School debate, because the issues are important . . . I think we've got to recognize there's going to be a certain robustness in attitudes, but I'm not dismayed about that.

THE CHAIRMAN: That's a good sign, actually, isn't it?

PROF. LASKIN: It's a good sign, yes. . . I'm not dismayed about it at all. I expect the people to be vigorous and vehement about their position, but then I also expect them to be able to substantiate what they are saying . . . and it is important . . . but a mere, unsupported statement. . . if somebody is prepared to say -- well, this is what we want and we have data which will support it -- as long as you make allowance for some investigation on the side. . . but any experienced conciliation chairman or any experienced conciliation officer of the Department of Labour appreciates that.

MR. MACDONALD: But, Professor Laskin, isn't the experience in the United States that might be of some guide to us. . . what you do when you reach that kind of a situation. I mean, in the United States it is possible for the Board to examine the situation to come to a conclusion and then issue a a cease and desist order. . . now, it seems to me that where our practice breaks down is that if you have, to cite an example, that has come before us of a situation such as in the Canada Vitriified Products in St. Thomas. . . if this isn't a failure to bargain in good faith I don't know when you're ever going to get it, and yet the thing is you come to a deadlock for months and months and months.

PROF. LASKIN: Well, that's true, Mr. MacDonald, it's a question of what enforcement machinery you have provided to fortify these unfair practices. Now, I don't mind saying, unsolicited views though they may be, I would like to see the unfair practices moved into the Labour Relations Board. . . subsequently, because at the moment all that the Labour Relations Board can do on the charge of unfair labour practice is to hear an application for leave to prosecute. And the Board is properly tender and reluctant to enter into a discussion of the merits.

MR. MACDONALD: Well, your views, unsolicited is precisely the point I want to get at, because it seems to me that as long as it is left in the category that you may have a clear-cut case of refusal to bargain in good faith and all that can flow from that is a right to prosecute, with all the labourious procedures involved in that, is that a refusal to bargain in good faith carries very little penalty and perhaps escaping any penalty at all.

PROF. LASKIN: Well, the same thing could be said of all our unfair practices. . . of course, they are all in the same basket. The only exception that exists is this relief provision in our Statutes, which I think is a very good one. . . Section 58. . . which enables the Minister of Labour to appoint a Commissioner and the Commissioner's recommendations are then. . . must then be implemented, the way the Statute reads, by the Minister of Labour. But, you see, that is affirmative enforcement according to its terms, because even in the unfair practices that we have if the thing does wend its weary way through a magistrate's court the only consequence is a fine. Now, true, the

finances are. . . they can amount up, because the penalties are on a daily basis, but you don't get affirmative enforcement.

MR. MACDONALD: But, has there ever been a fine of any proportion?

PROF. LASKIN: Well, sir, I don't know, because I understand that we have had very few instances of allegations of refusal to bargain in good faith. One of the reasons being, of course, I suppose, is that the issues must ultimately dissolve into the conciliation process. The point of this refusal to bargain in good faith becomes evidence that is pushed back and neither employer or union is in a strong position to say, in a marginal case, that there has been a refusal to bargain in good faith where there are still Statutory procedures to be exhausted. . . . those Statutory procedures being the required resort to conciliation. . . and on that basis quite probably the parties know that these are procedures that they have to meet, and if they decide to postpone the disclosure of their position to that point, I don't know that I'm prepared to throw any stones at them.

MR. MACDONALD: Well, I agree there. I think there is a margin of difference. . . it's just that I come back again to Canada Vitrified Products where you've been through it. . . the whole machinery has been completed. . . all the requirements of the Act. . .

PROF. LASKIN: Well, don't forget this, too, Mr. MacDonald, that there comes a point, if you believe in free collective bargaining, there comes a point where either party is to say -- well, you've had it -- or -- I've had it -- I've done about all that I'm going to do and I can't keep on bargaining forever. I've thrown my best shot. We can't seem to come to an agreement. I guess we'd better go our separate ways -- of course, at that stage Mr. Metzler's Department can't wash its hands. . . but this is because of the general supervisory duty to keep industrial peace. . . but certainly the Statute procedures have all been exhausted and who's to say that the parties haven't done their level best, each as it sees its position, to come to an accord.

MR. ROWNTREE: Well, then, would you say that the members of the Labour Relations Board would be in a good position to make that decision?

PROF. LASKIN: Well, that happens to be my . . . I mean, I . . .

MR. ROWNTREE: It could be that they would be in a better position than even the courts.

PROF. LASKIN: A much better position. There is no question about it. . . much better.

MR. MACDONALD: If somebody is in a position to make a decision then you evade what may well be the circumstances in some instances, namely, of just a refusal to have a union in the set up. In other words, a denial of the whole. . . I suspect, for example, in the Fisher case yesterday that's precisely what you've got.

PROF. LASKIN: Oh, I haven't any doubt that the. . . that we have an excellent Labour Board, but if that's the agency that deals with legitimate unions for collective bargaining it is equally the agency that ought to deal with the concomitant factors which bear on organization and bargaining.

MR. ROWNTREE: Let them be seized of the matters.

PROF. LASKIN: That's one process. I mean, these unfair practices come up indirectly on applications for certification, so that the Board is really passing on, let's say, coercion, if you like. . . or interference with organizations in respect of the certification application. But, the unfair practice is never isolated in that situation because the Board is there to count noses and find out whether the union has filed the requisite number of cards.

MR. MYERS: Isn't the successful prosecution for an unfair practice the same thing as compulsory arbitration?

PROF. LASKIN: Oh, no, sir.

MR. MYERS: Isn't it?

PROF. LASKIN: No. Because you aren't at the stage where you have resolved the terms of any dispute and all that you've dealt with is the behaviour and conduct of the party. . .

MR. MYERS: No, but a person could. . . well, . . . yes. The person's refusal to bargain in good faith could be hidden very easily under a disguise of words designed only to prevent a prosecution.

PROF. LASKIN: Well, that, of course, is true. But, this is nothing new in legal processes.

MR. MYERS: The Section doesn't seem to have much point

as it is now and if it hasn't any point, why not do away with it altogether?

PROF. LASKIN: You mean about the unfair practices refusal to bargain?

MR. MYERS: Yes. Or else make it so it can be observed . . . one or other.

PROF. LASKIN: Well, I would have thought that that's really the critical part of the whole Statute. We might as well go back to a period of no compulsory bargaining at all. . . let's shoot the works. . . without any certification or anything else.

MR. MYERS: The only thing, it's so cumbersome in its enforcement.

PROF. LASKIN: Well, that is so because of. . . well, it's because of having. . .

MR. MYERS: It can't be enforced if a person were reasonably intelligent. How are we going to get away from that?

PROF. LASKIN: No, but you see, sir, it's the same sort of thing as trying to prove fraud in a court. It's difficult. But we've got to do it, because it's the type of conduct that, as a matter of public policy, the community frowns on. Now, you've got to make up your minds whether refusal to bargain in good faith is the kind of conduct that, as a community, we ought to frown upon, and if the answer to that is yes. . . then we marshal the best machinery that we can devise to deal with it.

MR. MACDONALD: Well, the ultimate objective of the legislation is to maintain industrial peace. There is only one answer as to whether or not you want to have bargaining in good faith, because you can't have industrial peace without bargaining in good faith.

PROF. LASKIN: Well, you can have certain kinds of industrial peace by locking out people who are trying to bargain, but if industrial peace is predicated as it is in our qualifications on free collective bargaining, then that, to me, is the crucial factor.

THE CHAIRMAN: Professor, what is your opinion about the unfair labour practice. . . once leave to prosecute is sought and obtained, then it is up to the parties seeking it to conduct the prosecution under our present

practice. . . would it be more effective if the prosecution was conducted by the Board? . . . Rather than by the parties?

PROF. LASKIN: Well, it would be more effective. . . but it would be more effective in a procedure which itself is ineffective.

THE CHAIRMAN: Well, they could obtain the evidence with much more facility than the individual parties, could they not?

PROF. LASKIN: But, you are going to be turning the Board into an investigatory agency. . .you're going to mix its functions at that level and I'm not so sure that I would be happy myself to see that.

THE CHAIRMAN: Well, they are taking that position when they . . . when you have to seek leave to prosecute. In other words, you've got to prove your case twice.

PROF. LASKIN: Well, that's true. But, the Board giving leave to prosecute, it then bows out of the picture and it may turn out before a magistrate's court that the Board was wrong in giving leave because there were no merits involved to form a basis for a prosecution.

MR. MACDONALD: Well, that brings Section 58 into the picture . . . In Section 58, who does the prosecution? The Department?

PROF. LASKIN: It is not a prosecution. . . it is the appointment of a Commissioner. . .

MR. MACDONALD: No, but after they have found, for example, then this evidence is just passed on to the Board and they act in light of it.

PROF. LASKIN: Well, the Commissioner makes his. . . well, let's take a case of an employee who alleges he has been discharged for engaging in union activities. . . go back to the old business. . . This is the situation, and these are usually the situations where there is yet no union, so that he has no protection of grievance procedure or anything of that sort. . . so, it's likely his union will make an application or get in touch with Mr. Metzler here, and try to persuade him to appoint a Commissioner. Now, Mr. Metzler is going to send his conciliation officers out to look into the situation. . . his officers may report to him that this looks like a case which ought to be adjudicated on through a Commissioner's hearing. . . and he will appoint one. Now, the Commissioner makes his report. Suppose that he recommends that this man be

taken back and be reinstated with back pay and so on. Now, the Statute says that the Minister shall issue whatever order he deems necessary to carry out the terms of the recommendation. Now, you will have the next point. . . suppose the company or employer at that stage disobeys him, well then, of course, you throw him back into the prosecution procedure again.

MR. MACDONALD: Well, but upon whom does the obligation rest? The Department?

PROF. LASKIN: Well, I suppose on the particular individual who's agreed.

MR. METZLER: Yes. . . actually, if you remember, in 1957 we amended the Labour Relations Act. . . the party would have to go back to the Board to get consent to prosecute, to enforce the order of the Minister, or against the refusal to implement the order of the Minister. But, we removed that consent in those instances and the individuals can go direct to the courts without any hindrance from the Board or anybody else. If I may just amplify . . . I don't want to interrupt Mr. Laskin, but the actual procedure is this. . . that we get the report and recommendations from the Commissioner and those are released to the two parties right there and then, and if the recommendation is that the man be restored to his employment I formally send it to the employer and I say -- now, you will note the recommendation of the Commissioner. I shall appreciate hearing from you that you have implemented that recommendation -- which ought to obviate the necessity of the Minister issuing an order. And, I would say in about 99.5 per cent of the cases they go ahead and implement it, or get together with the aggrieved person and come to some sort of an arrangement that is acceptable, or taken by them to be acceptable. For instance, the man may have found employment elsewhere, but he is entitled to reinstatement, but rather than take the reinstatement he may say -- well, all right, I've lost so much money on this deal -- so there may be a cash settlement, and the thing that is acceptable to the aggrieved party represents the finalization of the matter.

MR. WARDROPE: Professor Laskin, here's a case that concerned me in our area. . . there was a certain man in one of the camps in an important position who wasn't behaving himself and the superintendent fired him. . . he

happened to be the union steward, and this superintendent wouldn't take him back, and they struck, without any notification at all they struck these five camps. . . closed them all down. Now, unfortunately, right at that time the chief buyer for this American company happened to be in one of those camps and saw this, and he went to the employer and he said -- does this happen very often here? -- Well, he said, we haven't had occasion before, but it does, I suppose it does. Well, he said, if that's the case, we may have to look to other sources for our wood. Now, there was a case, I suppose you would call it a wild cat strike, there was a union agreement in effect. . . nobody was notified or anything else. . . they just shut down all these camps. This employer, I understand, came down to Toronto to see the Department, and it didn't seem to me as if there was any penalty or anything else for that. Now, what is the answer to a thing of that kind that might have very far-reaching derogatory effect on the industry?

PROF. LASKIN: Well, Mr. Wardrope, there is penalties.

MR. WARDROPE: Well, what can be done about it?

PROF. LASKIN: You can get leave to prosecute.

MR. ROWNTREE: That's time-consuming.

PROF. LASKIN: I mean, if you are looking for a fast pill that you can take and remedy these things, you're not going to find it.

MR. WARDROPE: No. Well, that's it. Well, that thing doesn't happen very often.

PROF. LASKIN: No.

MR. WARDROPE: There was one case that was very very irresponsible, I thought, and might have had far-reaching effect, and it seems to me that that would be the responsibility of the local union officials. . . I mean, not doing a thing like that. . . but, it seems to me that if that were to go on certification on both sides should be cancelled, or there should be some kind of penalty.

PROF. LASKIN: That's a pretty drastic remedy for a. . .

MR. WARDROPE: I know it is. . .

PROF. LASKIN: . . . for what may be a wild cat situation. I mean, you can't automatically attribute every hair-brained escapade of an

individual employee to the organization of which he is a member anymore than you do the same thing as far as the employer is concerned.

MR. WARDROPE: Well, I agree that it should be done in both cases. I am not sticking up for the employer any more than for the union, but in that case it was really bad because this buyer was there and that did, in the future, he purchased wood from some other source. . . because he was afraid he might not get the quantity he contracted for. But, it's a serious thing. . .

PROF. LASKIN: Well, Mr. Wardrope, I don't care how much law you are going to put on the Statute books, it's not self-enforcing. It's not going to get up and bite you.

MR. WARDROPE: That's what I am trying to get at. . . you see, the lost time is so important.

PROF. LASKIN: This happens in all our litigation and in all our procedures. I mean, I think you have a temperate and a composed court, or else you have people rushing off in a great state of emotions and finding facts that don't exist.

MR. WARDROPE: I think that is it.

PROF. LASKIN: Certainly the whole process, the judicial process is a process of composure and deliberation, and it takes time, unfortunately. I don't know any other way to do it.

MR. WARDROPE: That was really a decision made by two men . . . the superintendent and this fellow who was making. . . and closed the whole works down. It's too bad, you know, that those things happen.

MR. METZLER: I was just making the observation to Professor Laskin that no matter how hard you try you're never going to get a final and complete answer to illegal strikes. You can do the best you can in the situation, but there is no answer that you can put on a piece of paper.

PROF. LASKIN: Well, put it this way, Mr. Wardrope. . . one of the most fundamental rights we have is the right to be a bad boy sometimes.

MR. MACDONALD: And most of us have exercised it.

PROF. LASKIN: And most of us have exercised it. Now, sometimes the consequences are a little more serious than we would have anticipated.

MR. WARDROPE: I was thinking that if there was some condition

of a fine, or something like that.

PROF. LASKIN: There is. He could be discharged and certainly wouldn't on the facts you stated, be entitled to reinstatement.

MR. WARDROPE: No. I don't mean the man alone. I mean the employer or the union, who ever caused the situation.

PROF. LASKIN: That is, you've got to bring responsibility home to them. . .

MR. WARDROPE: Yes.

PROF. LASKIN: Our theory of liability is liability for fault, isn't it. . .

MR. WARDROPE: Yes.

PROF. LASKIN: . . . and you've got to bring fault home to them.

MR. ROWNTREE: You don't think the power in the Labour Relations Board to make a cease and desist order would have this salutary effects ?

PROF. LASKIN: I think it would.

MR. ROWNTREE: Effect in a legal respect ?

PROF. LASKIN: I think it would.

MR. ROWNTREE: Within the atmosphere of that salutary effect, in those words, you might accomplish results.

PROF. LASKIN: I have no doubt, Mr. Rowntree, that some salutary effect flows from having these things aired in a prosecution before the magistrate's court, but I just don't think it's the forum for adjudicating on labour relations.

MR. ROWNTREE: We've had representations made to us here, Professor Laskin. . . some unions would like to be taken out from under the Labour Relations Act altogether. . . Now, if that were done I suppose that there would be no penalties enforcement ?

PROF. LASKIN: Other than what the common law now provides under the Criminal Code.

MR. MACDONALD: Well, on this point now. . . we're getting ahead to Page 7. . . maybe the chairman. . .

MR. JACKSON: Are we on page 6, Mr. Chairman ?

THE CHAIRMAN: Yes. . .

MR. MACDONALD: Mr. Wardrope led us over onto Page 7. . .
now we're back on Page 6. . .

THE CHAIRMAN: All right. . . Mr. Jackson?

MR. JACKSON: I would like to draw the attention, Mr. Chairman, of the Committee to Item No. 12 on Page 6 which deals with secondary boycott. . . if you recall, one of the reasons I asked the teamsters' union here was to point out the secondary boycott as pertained in the Paragraph 12 and subsequent paragraphs, was to point out that that secondary boycott condition does exist, and if you will look through there in the Questions 1, 2, 3 and 4, you will find out that what it is unlawful to strike or refuse, forcing or requiring a secondary employer to do, particularly at the top of Page 7 you will notice that you can. . . this will probably be of interest to Mr. Myers. . . that you can sue under a Section there the offending trade union for damages in his business or property and persons injured, and my question. . . I would like to ask a question. . . and that is, Professor, since this has been in I know it has been very, as you say here, there have been many knotty problems with it. . . by and large, however, this has now become accepted as trade practice in the States, is it not?

THE CHAIRMAN: What has?

MR. JACKSON: The enforcing of this Section of the Act of the U.S. Legislation. . .

PROF. LASKIN: At any rate, the momentum of the opposition seems to have slowed down a bit, Mr. Jackson.

MR. JACKSON: Yes. Let's put it that way then.

MR. MACDONALD: Well, has it been effective, though, in coping with secondary boycotts really?

PROF. LASKIN: That I don't know. I know that they are having a devil of a time in the Supreme Court of the United States to deal with the matter on an adjudicative basis. That is only, Mr. MacDonald, because of some constitutional question which affects the jurisdiction of Federal Courts in those matters and not because of the substance of the matter itself.

MR. JACKSON: If it was confined to the State, a lot of the

problems would be removed very quickly.

PROF. LASKIN: A lot of the jurisdictional problems, yes. Jurisdictions of courts, I mean.

MR. MACDONALD: My impression has been that the problem of secondary strikes is just as prevalent in the States as it is in Canada despite this legislation. I may be wrong.

PROF. LASKIN: Well, if you are saying this hasn't stopped it, I am in no position to pass judgment on that, but this, at least, gives a remedy which did not exist before for a number of reasons which don't obtain in this province, and one of the reasons, of course, is the existence in the United States of the Norse-LaGuardia Act, back in 1932, which prevents this. . . or tried to prevent the resort to injunctions in labour disputes. Now, that prohibition to resort to injunctions slowed down court processes in labour matters . . . I haven't any doubt that it was good legislation which was very much needed . . . and this was, of course, a pre-Wagner Act. Well, the existence of that legislation, of course, carried its own weapon. . . this secondary boycott provision has now, in a sense, inferentially repealed part of the Norse-LaGuardia Act by making court processes available in situations in which they weren't available before.

MR. JACKSON: Well, at least you've got the four specified as general, and this is trying to fit it into it, isn't that right, and it could be applied in Canada.

THE CHAIRMAN: In Ontario. . . not in Canada.

MR. JACKSON: Yes, in Ontario. . . it could be applied in Ontario.

PROF. LASKIN: Well, Mr. Jackson, it may be, and I use those words advisedly. . . it may be this conduct which is prohibited in Taft-Hartley is actionable here. Now, I don't know of any law professor and I don't know of any lawyer who is prepared to stand up and say that he can give you a fifteen minute discourse on the law of conspiracy and picketing. . . I mean, I would make a brave attempt to do so, but I'd qualify it. . . and it may be that strikes and picketing for the purposes enumerated in Taft-Hartley provision are actionable as a matter of common law. And, the reason, as I say, for putting them in the Taft-Hartley was to overcome the prohibition of previous

American legislation. Now, of course, you can try to channel the common law in certain areas, or you can create, legislatively, new civil wrongs. . . I'm not suggesting you can't, but it is a nice question whether we don't already have a forum for redress if people want to use it. As I say again, it's not going to get up and bite you.

THE CHAIRMAN: Anything else on Page 6, gentlemen? Page 7. . . Recognition Issues. . .

MR. MACDONALD: Mr. Chairman, there is a stipulation here I would like to explore. I understand in the United States you don't have to be certified.

PROF. LASKIN: No.

MR. MACDONALD: But at the same time non-certification doesn't deprive you of the protection involved in the unfair practices sections of the legislation.

PROF. LASKIN: That's right. And neither does it here except insofar as the refusal to bargain collectively.

MR. MACDONALD: Well, the point I wanted to consider was this repeated request we've had from various spokesmen for the building trades in the last few days that they should not be excluded in the Act. . .

THE CHAIRMAN: Should not be included. . .

MR. MACDONALD: . . . should not be included in the Act, yes . . . there is an obvious validity in their basic concept that in our free society you should leave people work it out as much as they can and they brought into the law and the law imposes itself only where it is required to cope with unfair practices or, in effect, violation of this free negotiation. Now, is this. . . would you care to comment on this?

THE CHAIRMAN: In one breath they say they don't want to come under the Criminal Code because they would be branded as criminals and the next minute they ask actually that they be brought under the provisions of the Criminal Code.

MR. MACDONALD: Well, I wasn't able to follow you there, Mr. Chairman.

THE CHAIRMAN: Well, I was quite able to follow myself. Mr.

Bruce admitted it.

PROF. LASKIN: If this is general legislation, then I don't see that anybody has a right to make a separate plea because it is general legislation. Now, I admit that there could be particular problems affecting the inter-relationship of a craft and building trade which could create difficulties, but that, after all, can be resolved by specification of bargaining units. There is one area, for example. . . I suppose we're getting close to this problem of jurisdictional difficulties. . . but the specification of the bargaining unit, if done carefully, it could be limited. . . as carefully as words can be descriptive of the exact scope of their rights. This is the very first thing you do in a certification application. . . is to determine your bargaining unit and there is no sense going ahead unless you've done this. . . bargaining in meaningless outside of a bargaining unit. That's the first thing you have to determine. And, if that is done precisely and carefully it should remove any claim of any competing organization to horn in except in the free period provided by the Act.

MR. MACDONALD: Well, in Paragraph 2 there in this Recognition Issues. . . you say that . . . "a recognition strike in Ontario would be unlawful as a matter of the common law of actionable conspiracy". . .

PROF. LASKIN: Well, that may be one of my pet theories, Mr. MacDonald.

MR. MACDONALD: Well, take Section 78 for example. . . if a group of employees whose employer has taken them out from under the Act go on strike for recognition, it's not unlawful.

PROF. LASKIN: No. They're under the Act. I'm talking about people in the Act. . . my point is this, that if the Act has finessed the recognition strike, if I can use that term, it's eliminated the recognition strike because it has substituted an orderly procedure, to accomplish that purpose then it seems to me, arguing as some sort of a lawyer, that it's an improper objective to strike for recognition because you've got the machinery of the Act.

MR. MACDONALD: I like your phraseology there, because the conclusion one draws from it is that our present Act in 78 creates a disorderly procedure for achieving it, and I agree.

THE CHAIRMAN: Anything else on Page 7, gentlemen?

MR. MACDONALD: Well, without any question, but it seems rather interesting for us to consider, Mr. Chairman, that in the United States they have had as low as thirty per cent as a requirement for initial consideration for a bargaining unit, and a simple majority vote. In other words, two of our controversial points here in our legislation, and apparently. . .

PROF. LASKIN: I will go even further, Mr. MacDonald, because again the theory of our legislation is different. . . it's changed after the war and the American policy is, as I tried to point out, still a policy of representation. Our's is a policy of membership. It's a very important difference.

THE CHAIRMAN: Very important. . . . Union Qualifications for Certification. . . Page 7 and 8. . .

MR. MACDONALD: Are these specifications at the top of Page 8 the equivalent of the licensing of unions as has been represented to us, or proposed to us on a number of occasions?

PROF. LASKIN: No. No, these are simply the non-communist affidavits to bargain through the Taft-Hartley Act.

MR. MACDONALD: Well, let me. . . maybe it isn't fair to put this question to you. . . but, what would licensing involve as proposed. . . I have forgotten who made the proposition?

PROF. LASKIN: I understand the license as being an authority to do something without which you wouldn't be able to do it.

MR. MACDONALD: Well, isn't that the equivalent of certification?

PROF. LASKIN: Well, I think it is something more than that.

MR. MACDONALD: Well, what more than certification does it involve, then?

PROF. LASKIN: Well, you can't even stick your nose into the door of the Labour Relations Board office until you come with a license. . . that's what I understand by a license. . . the power to do something, it gives you status which you would be denied without it.

THE CHAIRMAN: What do you think of that suggestion?

PROF. LASKIN: Not much.

THE CHAIRMAN: What do you think about trying to incorporate unions?

PROF. LASKIN: Not much. I don't know what people are trying to accomplish. . .

THE CHAIRMAN: I know. . . I agree.

PROF. LASKIN: I mean, I have always thought of incorporation with intent to limit liability, and it seems to me that some of the proponents of incorporation have in mind the extension of liability. Now, it may be that they may be have visions of walking up their own backs.

MR. MYERS: They were wanting to set up an entity to be sued by incorporation.

THE CHAIRMAN: What do you think about the rights to sue a union or the right for a union to sue?

PROF. LASKIN: Well, we have a procedure now of representative action. It's a little cumbersome. . . I think the courts made it a little more cumbersome than it should be, but I can't get enthused about it as a panacea for anything. What's it designed to accomplish? I mean, it is just a paper victory.

MR. JACKSON: It makes them more responsible for their actions, perhaps?

PROF. LASKIN: They're responsible now. There's no suggestion that you're going to eliminate the necessity for establishing fault. . . I mean, is there a suggestion that the union is going to be responsible for every fool act of every member?

MR. JACKSON: Well, what have you got. . . you've got the individual. . . that's what you've got and that's what you end up with, and that is shorting the responsibility. . . you've heard the evidence here in the teamsters. . . it wasn't arguing that did it. . . we don't even know this man -- or he was with us but he is no longer with us -- there is no responsibility.

PROF. LASKIN: But adjudication can establish that, Mr. Jackson.

MR. JACKSON: On the individual.

PROF. LASKIN: No, on the group. . . it's been done in the House of Lords it's been done in the Supreme Court of Canada. But the hardest part is to establish the responsibility of their collectivity, but once you've established that, it seems to me that you accomplish the purpose that you set

out to accomplish. And you are not going to make the establishment any easier by incorporating. That's my point. If you're looking for a monetary compensation, I'm prepared to agree with you that you may be able to collect your judgment a little easier, but if you're looking for the establishment of vicarious liability you just aren't going to get anywhere.

MR. JACKSON: But I think it's more than that, don't you? Don't you think it's a question of. . . forget monetary reimbursement and so on, and look at it from the standpoint of straight responsibility. I agree with you when you say that if you could pin it down collectively you'd have no problem, but where. . . it's very easy to say -- we don't know anything about this man, or -- he used to be with us -- what have you got, you've got. . . it could be that you could get a group of irresponsible people running their unions, and I think some evidence has been put forward to this committee on that very thing, and you have no recourse except to get the individual. There's no responsibility. . . a good union, I am quite sure, is willing to take responsibility for its members and it's been trying to bring in those bad unions.

PROF. LASKIN: Well, I would like to know at what point you are going to make determination of responsibility?

MR. JACKSON: Well, for one example, make it the same way as an employer is now responsible for his employees while on company business. Now, that would be a starting point. . . an employer is. . .

PROF. LASKIN: You've got the same problem now in non-incorporated associations. . . that they can be held responsible for the acts of persons who are on their business. It's a question of evidence again. It may be that the law moves in deeper grooves on the employer's position because we've had more judicial experience. But, I don't see that the legal problem, and that's what I consider responsibility. . . I don't think the legal problems are any different.

MR. MYERS: Well, excepting that one representation dealing with this matter made to us was that in the purely union activity then the person violating the law should be presumed to be acting with the consent of and on the union's business unless the union showed that it wasn't.

PROF. LASKIN: Well, sir, you know what this is. . . every-

body wants somebody else to do their work for them. That's all it is. They want somebody else to do their work.

MR. ROWNTREE: Without prolonging this, Mr. Laskin, let me give you an example which I believe I gave to the Board a year ago. Six companies in an agreement. . . one company has prolonged negotiations and signed the contract. . . immediately after that the same union has never requested the right to meet or bargain or be the representative of the men. . . the other five companies were shut right down. . . one, two, three, four, five and the companies had never had, in two instances, were completely ready to sign the agreement when it came. . . none of them has ever been requested to meet with the union. . . so there was what is called an illegal strike. Now, that didn't happen. . . that was by design. . . because of the economic sanctions that existed and the time factor that existed and the season of the year. . . now, the work stoppages last anywhere from eight to sixteen days in each case, and there are hundreds of men and millions of dollars of equipment involved. . . Now, granted, that may be an exceptional case, but if there was some cease and desist power in the appropriate labour board, I believe that would have had a salutary effect. . . I think I am giving you a good example where there's a remedy required.

PROF. LASKIN: You see, I'm not in any way surprised that this happens. I am surprised that effective action that is available isn't taken. Now, I'm not here to talk about my own experiences, but I sat as chairman of an arbitration board in which I assessed damages of \$9,500 against the union for breach of the collective agreement. . . of an unlawful strike in violation of the collective agreement. . . Now, I had to sit for a long time. . . I had to take evidence labourously, but after all was said and done I was able to make an affirmative finding on the evidence that not the individual but the organization was responsible and culpable for a violation of the agreement, and I took evidence as to the damages suffered and assessed them. Now, these procedures are open under collective agreements. . . these procedures are open before the ordinary courts of jurisdiction, and you're suggesting, sir, that they also be open by way of cease and desist orders before the Ontario Labour Relations Board. Well, I have no doubt that this would be part of the pattern of unfair

labour practice enforcement of which I personally would approve. I think this would be better.

THE CHAIRMAN: As a matter of interest, Professor, what happened to your assessment of \$9,500?

PROF. LASKIN: It was collected by the check-up money. It was collected.

THE CHAIRMAN: So, the remedy is there. . .

PROF. LASKIN: I've been forgiven, I suppose. If you are going to walk around on tip-toes in fear that you are going to break an egg. . . well. . .

THE CHAIRMAN: You'd better get out of labour.

PROF. LASKIN: You'd better get out of labour. . . the legislation is there. . . the remedies are there. . . the parties have only to act on them.

MR. MACDONALD: Well, isn't the value of a cease and desist order that it gives you some sort of a more immediate solution . . . in a situation that may have very complex, prolonged legal requirements, if you're going to go into the courts?

PROF. LASKIN: And, from my standpoint . . . standpoint of administrative efficiency in operating this legislation, it brings together the elements of the policy into one administrative organization. It doesn't disperse . . . it broadens. . . and since the Ontario Labour Relations Board works with the Department of Labour and keeps those two agencies working together on all the elements possible, because you may write legislation from now until the cows come home and it's still got to be administered.

MR. MYERS: What is the purpose of the provision of some other Act which prohibits actions against unions?

PROF. LASKIN: Well, it doesn't prevent actions against unions . . . the Rights of Labour Act. . . well, I find the Act amusing today. . . but the Rights of Labour Act prevents the enforcement of a collective agreement in the courts. It never was enforceable in the courts anyway. . . it simply reiterates the common law. . . that's number one. . . secondly, the Rights of Labour Act modifies what was an old, rather severe document of civil conspiracy on unions. Now, the interesting thing is that although the Rights of Labour

Act was passed in 1944 in this province, in 1942 the English House of Lords handed down a decision which, as I understand the law, really made that section of the Rights of Labour Act unnecessary. Take the Crawford case. . . because there wasn't any question that the courts were applying the double standard, one standard of civil conspiracy of employers and the other standard unions, and the House of Lords atoned for that in 1942 in the Crawford case and brought unions and employers under the same common law doctrine of civil conspiracy. In the meantime, we passed the Rights of Labour Act two years later and put in legislation what the courts. . . and we followed it in one or two other decisions . . . had already recognized as the orderly evolution of the common law.

MR. MYERS: But, if it were repealed then the effect would be nil?

PROF. LASKIN: I would think so. I don't think it would have any disastrous effect of that particular section. Because, the essential point that still remains on conspiracy is what is a proper object of concerted labour action. That's your test.

MR. MYERS: We have a great deal of objection to that Section, and if it were repealed and wouldn't adversely affect anybody, then it might be worthwhile for the Committee to. . .

PROF. LASKIN: I don't think it would do. . . it doesn't do anything now that couldn't be done under the common law anyway and it's repeal wouldn't make things any worse.

MR. WARDROPE: Professor Laskin, I wonder if the Chairman would let me repeat a story that I heard from John Burke, one of the greatest union leaders I think there is because he has had industrial peace in that work for, I think, twenty-six years. . . and I asked him why. . . is it due to you, John. . . he said, I don't know, but I've had the greatest co-operation from management it is possible to have. There is never a statement comes to a shareholder or a director that I don't get a copy of it, and it's up to me to assess that statement, to see whether it will stand something for my men or whether it wont. If it will I try and get it, if it wont I've got to convince my men that they should hold the line. Now, he said -- Mr. Wardrope, in all these union things remember that fairness and good faith are the two basic things . . . and keep

those always in mind. . . you can put an Act in with all the legalities you like that will never continue in that field too. He said, I admit you have to have them for certain circumstances. . . but, I think that's the basis of it and all these legalities and ramifications that are put into an act, and taking unions out from under the Act, don't solve the problem. . . but what we are trying to do something that is going to be beneficial and is going to improve it and that is what we're up against. It's a big job.

THE CHAIRMAN: Gentlemen, that brings us to Page 8. . . The Bargaining Unit. . . any questions?

MR. MYERS: There is this point, Professor, which has been raised. . . which is this that sometimes the union will be certified and the Act provides that the employer is bound to carry on negotiations with the bargaining committee, but in the meantime an employer full of bad faith does discharge all the active employees and there isn't anything left of which a bargaining committee can be formed. Have you run into that situation?

PROF. LASKIN: No, sir, I can't say that I have. I have run into a situation in conciliation cases where objection has been taken that the union isn't there with the proper bargaining committee and promptly overruled the objection.

MR. MYERS: Before there is an agreement the employer is at liberty to fire anybody he likes.

PROF. LASKIN: Not if it is violating the unfair practice provision of the Act, because they operate there whether there is a union organization or not.

MR. MYERS: Yes. I see.

PROF. LASKIN: This is a fundamental protection for the individual. . .

MR. MYERS: Yes, oh, yes. . . I see.

THE CHAIRMAN: Page 9. . . Frequency of Certification Applications. . .

MR. MYERS: Well, let me talk about the. . . In Malton. . . Briefs have been presented in which the employers have urged the advisability of providing for a secret certification vote in every case. . . the idea being

that the union brings pressure very often not only the employer. Have you run into any situations there, and have you any ideas on the secret vote?

PROF. LASKIN: Well, the only thing that I would say, and I have said it in this brief, is that the Labour Relations Board of the United States has no power to certify without a vote. All certifications in the United States in favour of the election.

MR. MYERS: Well, another thing in that is that if a employee doesn't vote he's voting against certification and so, in effect, he's telling his employer that he is voting against certification by merely refraining from voting. How could that be made fair?

PROF. LASKIN: Adopt the same policy we have in our elections.

THE CHAIRMAN: A majority vote.

PROF. LASKIN: That's what the Wagner Act and The Taft-Hartley does. . . it is simply a majority vote.

THE CHAIRMAN: Oh, I can pretty well agree with that.

MR. MYERS: Yes, I think so.

THE CHAIRMAN: Decertification. . . on Page 9.

MR. MYERS: Well, then, I would like to mention a point which was brought forward and that is in the case of employees wanting to become decertified, they have to initiate certification proceedings and they are not of the. . . haven't the educational qualifications nor the organization to institute certification proceedings and the suggestion has been made that there should be nothing wrong with an employer instituting certification proceedings at the request of a group of employees, and if it's all done by secret vote, what would be the matter with that?

PROF. LASKIN: Well, of course, comment to that. . . the business of unionism is the business of the employees not of the employer.

THE CHAIRMAN: You're right. Page 10. . . Collective Bargaining Processes.

MR. MACDONALD: Well, Mr. Chairman, may I ask Professor Laskin this. . . there is no attempt under the American legislation to define the Bargaining Unit. . . am I right?

PROF. LASKIN: That's right.

MR. MACDONALD: In other words, because they have a representative rather than a membership approach. . . if thirty per cent of. . .

PROF. LASKIN: Oh, no. . . no. . . no. I am sorry, I didn't understand you. No. If they are going to certify they will certify for a specific bargaining unit and all you have to do is to read one of these reports of the National Labour Relations Board which are issued yearly. . . this one just came off the presses. . . to see the difficult administrative problems that they get into in the definition of a unit.

MR. MACDONALD: Well, what exactly do you mean, then, in the beginning of the second paragraph when you say. . . "The U. S. legislation does not purport, as does the OLRA, to regulate any of the procedures. . .

PROF. LASKIN: . . . "procedures of bargaining, as, for example, the composition of the union bargaining committee. . . " Well, in other words, once certification is accomplished then there is nothing in the American Act which guides the parties as to how they are to conduct their negotiations whether it is through a particular committee of the union. . . there is no compulsive provisions of conciliation and that sort of thing. The parties are then left to the free motive power of collective bargaining.

MR. MACDONALD: Can anybody represent them at the collective bargaining?

PROF. LASKIN: Oh, yes. It's their own business. They might even hire a lawyer. . . high priced. . .

THE CHAIRMAN: High priced. . . like Mr. Lewis.

PROF. LASKIN: Competent. . . a competent lawyer.

MR. MACDONALD: Well, if they got Mr. Lewis they would have a competent man, anyway.

THE CHAIRMAN: Anything else on Page 10, gentlemen?

MR. MACDONALD: Well at the bottom, Mr. Chairman, I am interested in this American situation whereby they can go on strike at any point during negotiations, but if they do the employer is then free to try to replace the bargaining unit. Now, we've had some great discussions on this whole issue with the Canadian Manufacturers Association and others, their contention being that once you are on strike, in effect, you are beyond the law and it is the

privilege of the management to try to replace that bargaining unit. Now, it seems to me that implicit in that is almost inevitability of a degree of the possibility of violence on the picket lines.

PROF. LASKIN: Well, I don't see anything wrong with an employer taking the position that if his employees wont work when he wants them to work he's going to try to get others who will work. Obviously, from the standpoint of the striking employees, they are going to be concerned with the effectiveness of the strike and I have no doubt that you may find that disturbances will develop, but this seems to me as implicit in the freedom of the employee to act in their interest and the freedom of the employer to act in his interest.

MR. MACDONALD: But, what are the picketing laws in the United States ?

PROF. LASKING: Well, the jurisdiction of the court there is no less ample than the jurisdiction of our courts here. . . picketing depends first on the object and secondly on the means by which it is carried on. You may have perfectly peaceful picketing in the sense that one man is walking up and down and is reading a newspaper, carrying a sign, but yet the object, the impression may be a prohibited object. . . either prohibited under the implications of the Labour Relations Act or prohibited as a matter of common law. On secondly you may have picketing for a perfectly counter object, better wages, working conditions. . . but the means by which picketing is carried on may make it unlawful because they've resorted to obstruction of access of premises, jostling the people who want to enter, and that sort of thing. . .

MR. MACDONALD: But, implicit in this is. . . surely the conclusion that once you get into a strike you are beyond the law because then management has the right to, in effect, replace the bargaining unit.

PROF. LASKIN: Replace the employees. He can't get rid of a certification. He may be able to replace the employees, and even then he is still subject to the strictures of the Act that he must not engage in an unfair practice. In other words, suppose the strike is ended and the employer discriminates on the basis of union activity as to whom he is going to re-engage. . . he is equally guilty of an unfair practice in that connection as in any other connection

because the employees are free at certain times to go on strike. I'm not talking now about strikes that are prohibited by the Statutes, I'm talking about strikes that are within the limits of the law.

THE CHAIRMAN: Well, you point that out in this last line following that. . . "It is well to add that while a union may strike to enforce its demands, the employer (where he is not guilty of any unfair practice) may replace the strikers if he can. . . " Not the bargaining unit, but those who are actually on strike. Page 11, gentlemen. . . ?

MR. MYERS: Well, then, just one minute. . . if he replaces the strikers and the strike is called off then his collective bargaining agreement comes into effect, does it?

PROF. LASKIN: Well, there may not be an agreement in the first place. . .

MR. MYERS: But, if there is, and it comes into effect and he's got to fire the men if it provides for a closed shop.

PROF. LASKIN: If it is, it is there all the time. . . if they strike while the collective agreement is in operation it's an illegal strike.

MR. MYERS: Yes. . . yes.

THE CHAIRMAN: Page 11. . . Bargaining While Agreement in Effect. . .

PROF. LASKIN: Well, there's an interesting difference here. Frankly, I prefer our policy. The difference is this, Mr. Chairman, that I take the position, at any rate, as I read our Statutes and I think the Labour Relations Board takes the position. . . I am, of course, not speaking through them. . . but, once you make your bargain. . . you've made your bed. . . you lie in it. That's the end of the bargaining process for the term of the agreement. Of course, the agreement belongs to the parties. . . they can change it any time they can mutually agree to change, but you can't bring up during the term of the collective agreements things that you forgot to mention in your negotiations. I mean, this is a case of a period of quiet. . . you stabilize your relationship, now you've got to live by it. . . the American position, which is an interesting one, because this is based on the very deep-seated conviction about the right of a person to withhold his labour, and soon. . . and there is a very deep con-

constitutional implications about their position on protecting the right to strike at all costs, but the American position is there is some limited power of forcing collective bargaining even during the existence of the collective agreement. I don't understand our policy to be that, and frankly, I prefer ours, because agreements aren't for such long periods that the matters can't be adjusted fairly readily.

THE CHAIRMAN: Page 11. . . State Intervention in Resolution of Bargaining Differences. . . on Page 12 and Page 13.

MR. MACDONALD: Is there any reason why conciliation machinery can't be made available to those who are not actually certified?

MR. METZLER: I can be.

PROF. LASKIN: Well, it can be, I suppose, if you apply on a formal basis to the Department of Labour. But there is no mandatory provision for it, that's all. I take it that the Department of Labour conciliation services are available to anybody who had a labour relations headache.

MR. MACDONALD: As a practice, that is the case, is it, Mr. Metzler?

MR. METZLER: In a general way, yes. The only answer to an application I'd make . . . is that if our conciliation officer walked in and, say, the employer was to say -- well, of course, this union doesn't represent the employees -- he gets out. . . because there is a process there. You see, there is a difficulty in connection with this whole thing. . . and I think that Professor Laskin recognizes it full well. . . we could very well be wasting our time because of the fact the way that our Ontario legislation is formulated, supposing we sent the conciliation officer in and he failed to settle and there was a sort of a tacit understanding that there was recognition of the union as the bargaining agent but nothing written, before the union could take economic sanctions against the employer it has to come before the Labour Relations Board, gain its bargaining rights, serve the notice required under the Act and go through the processes of conciliation. So, while. . . for instance, the case that Mr. Wardrope referred to, which, of course, is an entirely different thing . . . but, if you were to ask me. . . now, there is a dispute and one of the parties says -- well, for heaven's sake come down here and give us a hand --

I would think that we would be remiss in our duty if we didn't say -- all right, we'll get a conciliation officer and we'll see what he can do. We did that in the case Mr. Wardrope mentioned, I'm pretty sure, and got a disposal of the thing. Because, we were the only people who were in a position to pull the parties together even in an illegal strike situation and say -- now, here, come on, let's sit down and get this thing straightened around. . .

MR. MACDONALD: Further down on Page 12, Mr. Chairman, I wonder if Professor Laskin would care to express a view on the question of whether there is any value in making it mandatory upon the Board to make a report. . . if they haven't reached a settlement. It has been represented to us that if they haven't reached a settlement the most expeditious thing to do is to just say -- we haven't, there it is.

PROF. LASKIN: Well, I am a great believer in legislative experimentation, Mr. MacDonald, I'd like to see this legislation operate without a report. I'd like to see it done.

MR. MACDONALD: Why? I would just like to explore your opinion.

PROF. LASKIN: Well, it seems to me that. . . unless, of course you get into a situation where you may have to appoint some special public commission because of the over powering public interest or public concern for the dispute, that we've regarded this machinery as, so to speak, private machinery with public overtones. . . I mean, the public policy we have declared in providing for mandatory certification, and we've carried the parties through, and since we've launched them on their own collective bargaining enterprise, and I'm prepared to leave them there. . . I'm prepared to leave them there.

MR. MACDONALD: I'm inclined to agree with you. We've had a number of representations that that should be the case.

THE CHAIRMAN: Anything else, gentlemen, on Page 12. . . Page 13. . . ?

MR. MACDONALD: There is perhaps a moral here that deserves reflection. . . you've either said too little or too much, Professor Laskin. . . could you elaborate on it?

THE CHAIRMAN: Where is that?

MR. MACDONALD: The last sentence.

PROF. LASKIN: Well, you see, I couldn't resist the temptation to intrude one or two opinions. . . I mean, otherwise it is so anticeptic. . . nobody would have anything to do with it.

MR. MACDONALD: I think your opinions are of some value.

PROF. LASKIN: Well, this is a rather interesting problem on which I have one or two views. . . I think it goes to the heart, perhaps, of the conciliation machinery itself. I'm just wondering whether or not we're wasting a lot of manpower. . . I'll put it that way. . . as to whether we can't provide this motive power for settlement at an earlier stage.

MR. MACDONALD: In other words, are you suggesting that one step rather than two steps is. . .

PROF. LASKIN: I'm. . . mind you, I suppose my experience has been a little more extensive in arbitration than it has been in conciliation, but, I think I am a sort of a one-step fellow. If you have good men as are being developed in the Department here, and I think it is sadly overworked, I am amazed at the amount of work that these people do. . . Mr. Metzler gave us, up at the University, a conference last week on these statistics which you gentlemen no doubt have on the number of disputes that are settled by conciliation officers. . . I mean, I am just flabbergasted that they have been able to accomplish that much. I would like to strengthen that force, raise its standards of operation and make them the buffer between the parties and going out on the street.

MR. MACDONALD: Well, your theory is, if I get it correct here, is that in a negotiation where there is real tough bargaining differences, your conclusion is that in many cases they really get down to bargaining only after the conciliation board report has come in and they know then, from this point on you are either going to settle this or there is going to be a strike?

PROF. LASKIN: Of course, you see, there are so many stages of tactical bargaining that can be moved. . . it's like moving men on a chess . . . a checker board. . .

MR. MACDONALD: In effect, you're postponing genuine bargaining.

PROF. LASKIN: Postponing genuine bargaining. . . now, on the other hand there are a lot of small concerns. . . this, of course, is the dilemma of making up your mind on policy. . . I wouldn't waste my sympathy on the big fellows. . . I mean, they know their business, and by heavens let them get down to it as quickly as they can. . . the Steel Company of Canada and the United Steelworkers. . . bigger organizations. . . I mean, they know their problems. . . and there's some suggestion that maybe this recommendation helps the smaller person to make up his mind. Well, I have the feeling that by and large the patterns are established by the larger concerns and that. . . well, my own disposition. . . this is to try the one-shot affair.

MR. MACDONALD: One of Professor Wood's suggestions was that you have only a one-shot affair but that with new bargaining units it would be possible to go through a second one because you may conceivably have on both sides, union and management just a lack of knowledge of the whole implication of bargaining and that this was an educative process. Now, it strikes me that there is a degree of validity there which doesn't necessarily cancel what I am inclined to believe would reduce the whole thing.

PROF. LASKIN: Well, you see, we've come a long way since 1943. We've had a pretty varied and extensive experience in this province in these matters. . . there are a lot of knowledgeable people around, and I wouldn't be worried really about the people who don't have that experience. . . they have available to them a great fund of assistance today that they didn't have in 1943 or 1944. They can take advice.

MR. MYERS: Can I ask you this? It has been suggested that the present conciliation procedure takes far too long, and someone said there ought to be a time limit, that if conciliation isn't accomplished in so many days. . . well, now, it seems pretty clear to me that a certain amount of delay in the conciliation procedures is most beneficial. If you have a single conciliator aren't you going to bridge the time too much, and if you have the conciliation officer and the conciliation board, it's possible to extend it too long. . . wouldn't some compromise be advisable, such as, allow the two kinds of conciliation as now provided by the Act, with a time limit?

PROF. LASKIN: Well, if you mean, Mr. Myers, a time limit

which will enable the parties to say to the conciliation board -- well, you fellows have diddled around long enough. . .

MR. MYERS: That's right.

PROF. LASKIN: . . . and from now on we are free of the restraint of the Act. . . then, I mean, you are demeaning the conciliation board.

MR. MYERS: Well. . .

PROF. LASKIN: I mean, what's the point of having it. . . the real problem, of course, is you've got ad hoc boards. . . and as I have said elsewhere they are neither completely public nor completely private tribunals.

MR. WARDROPE: Professor Laskin, on that point. . . it was brought out very forcefully to us that the big delay was the appointment of the nominees and so on. . . for instance, I write you and say that your nominee is to be there at a certain time and I don't get any reply from you. . . and the further suggestion was made that it might be a good thing to be able to subpoena these people, or speed it up in some way. . . that was one of the great reasons for delay. Perhaps management or unions though -- oh, well, the dickens with this, we'll just let it rest for awhile and see what happens -- is there any way in which it can be speeded up from that angle?

PROF. LASKIN: Mr. Wardrope, delay is inherent in the procedure. . . it is certainly not the fault of the Department of Labour.

MR. WARDROPE: Oh, no. I agree. . . I agree, that they were trying to get something. . .

PROF. LASKIN: But you've got ad hoc people serving on a part-time basis with a transitory interest in a dispute, but no permanent continuing interest unless they are prepared to make a career out of it, and very few people do. . . for example, I have a job at the University, and if I do a little labour work it is because I want to keep my students, so to speak, current with what's going on. . . I do it maybe from that standpoint and maybe from what I feel I might do to contribute a little bit. . . but, it's not my main pre-occupation. . . and this is much too important a matter today to be left to this sort of hit and miss business.

MR. WARDROPE: One point you've missed. . . I am speaking of unions or management who are supposed to send the names of their nominees

that sit on this thing. . . they delay in replying to the board as to who their nominees will be. . . they just let it go and it might take weeks before they even reply.

PROF. LASKIN: If you have that procedure, you're going to have those delays. You've got to face it. People that are active in this work are all very busy people. We had a conference at the University last week that tried to deal with this problem of recruitment. I don't know. . . Mr. Metzler and I believe we made a good beginning, but we're a long ways from finding a satisfactory solution, and it seems to me on my level of thinking that the solution must be found in making this attractive as a full-time occupation. . .

MR. WARDROPE: Yes.

PROF. LASKIN: And you're not going to do it by allowing people to take a passing exercise in conciliation. . . well, by making them civil servants. . .

MR. MYERS: Have you any comments to make about the appointment of the judges as chairmen of the boards?

THE CHAIRMAN: You might have to appear before a judge some day. . .

PROF. LASKIN: No, I have no fear. . . number one, there is no other segment in the community that we have available for that kind of work . . . number two, it's perhaps absurd to saddle them with additional duties. And, that again is another reason why. . . you see, they have security of tenure just as I have, or like you gentlemen. . .

THE CHAIRMAN: In other words, you think we should increase the number of people who can do this work and that they should be trained to do it. . . as quickly as possible.

PROF. LASKIN: And put on a basis of security of tenure so that they will know that they are not subject to the passing favours of employers or unions. I mean, it doesn't bother me a bit, but there isn't any question that employers and unions keep a box score on every conciliation chairman and every arbitration chairman. . .

THE CHAIRMAN: We don't like this fellow, but we'd like that fellow.

PROF. LASKIN: . . . now Laskin is all right on so and so, but he's poison on so and so. And, as I say, it doesn't bother me very much, but I think from the standpoint of putting the judiciary in that position where Mr. Justice X is acceptable on this case, but he is not acceptable on the other case. . . I think that's demeaning. It's personalized selection of people who are jockeying for position, and it just doesn't go.

MR. MACDONALD: Well, Professor Laskin, let me put to you another of our knobby problems. . . in the Act is specified certain time limits for various stages of the procedure and. . .

PROF. LASKIN: And you accept the time limit from that. . .

MR. MACDONALD: Well, we had testimony from the Department's own officials that on the average case the time limit has elapsed before they actually get down to negotiations. Now, the problem that I, quite frankly, can't get reconciled in my mind, is what you should do about this, because as a general principle, to have a law which says this must be done, and in the average case and in the majority of cases it isn't done. . . that's bad law. Now, what do you do about that?

MR. ROWNTREE: I think it is only fair to add that we discussed this the other day and the point was made that the ignoring of the time provisions in the Act isn't that it can't be taken as ignoring the law, it is really a waiver of the time limits by the parties to the matter.

PROF. LASKIN: Well, where do you suggest that this excessive exceeding the limits occurs. . . at the point of face to face bargaining, or when the parties have passed into the conciliation stage.

MR. MACDONALD: Well, it has been spelled out to us how there can be delays, and in some instances they are sort of inherent in the procedures . . . it isn't a deliberate thing. But, the point is that the accumulative effect of this is that you are violating the law. Now, if the general practice is that you are violating the law, it seems to me that the law is out of date. . .

PROF. LASKIN: Well. . .

MR. MACDONALD: Let me finish the question. . . do you put in other time limits or do you remove the time limits?

PROF. LASKIN: I don't agree with that assessment, Mr.

MacDonald. . . I don't think you are violating the law because I regard the law in that connection as primarily a law for the benefit of the negotiating parties. I mean, this is the private aspect, if you like, of the Statutes. Now, they're the ones who may suffer from it. . . of course, it is open to say -- well the public is going to suffer because we're going to have a strike in a hospital or a strategic industry. Well, I know this, but primarily this is for the parties and it's a guide in connection with the duties of the Department of Labour on conciliation.

MR. MACDONALD: But, even so, Professor Laskin, if in the average case the time periods have elapsed before they get into negotiations . . . I am not arguing against the wisdom of the law. . . the law, as it now stands isn't right. Now, the problem is, what alternative periods do you put in because if you make them longer does that prolong it still more? This is our dilemma.

PROF. LASKIN: That of course is no answer. . . to make them longer, because you can always give people ten years if you like to settle their dispute. But, . . . well, the only answer that I have, of course, is to put the parties under the gun, if I can use that expression, earlier. . . after all, the union and the employer are obliged to bargain. At that stage the duty to bargain should be enforceable, if somebody is not living up to the duties.

MR. MACDONALD: What do you suggest to get them under the gun earlier?

PROF. LASKIN: Well, simply by perhaps releasing them from any compulsion of the law at an earlier period. . . compulsion of subscribing or observing certain procedures. If you took the American position, for example, the employer is free to go his own way so far as replacing employees or putting terms and conditions of employment into effect after the parties have bargained for a reasonable period. . . and no time limits are specified. . . the union is free to go on strike. I mean, there is no mandatory procedure that they have to go through except in the case of a national emergency strike situation, and the commentators don't think much of those. Now, we've had a long tradition of resort to conciliation. . . it at least interposes an opportunity for some third person to have a look at the elements of the disputes. If you want,

in labour, perhaps to experiment with a situation which would involve protraction of time. . . . have the one-stage procedure, and by having people available on staff at the Department of Labour, you make them much more acceptable and available without the loss of time that is involved in trying to get together three assorted members of the boards of conciliation.

THE CHAIRMAN: Page 13. . . Collective Agreement Considerations. . .

MR. MYERS: Going back to reports, you say the American law is that they must bargain for a reasonable time. . . is there any definition to that?

PROF. LASKIN: The reason I say that, Mr. Myers, is that this all goes back. . . this all bears on a complaint of failure to bargain in good faith. . . in other words, if an employer comes and says -- well, here I am to bargain, but this is the last you're going to see of them. . . this would bear on the unfair practice.

MR. MYERS: It has been said that time itself is an excellent conciliator and that that is a shame to cut that down too much. You don't agree with that.

MR. MACDONALD: Well, McKenzie King's theory always was that if any problem can be ignored long enough it will solve itself.

PROF. LASKIN: Well, there is a long run before we are all dead.

THE CHAIRMAN: Page 13. . . Collective Agreement Considerations. . . In General. . . (b) Restrictions on Terms. . . Page 14. . .

PROF. LASKIN: Well, here, I may just make this one comment . . . I think wisely our legislation and the legislation in the United States has simply left it to the parties to decide what the contents of their collective agreements are going to be. . . there are certain required, but they are not very extensive. . . certain required terms, certain prohibited terms. . . but they're all consistent to our general policy.

THE CHAIRMAN: Page 15. . . Enforcement. . .

MR. MYERS: Well, a lot of objection has been raised of the powers of courts to grant injunctions. Can you see any alternative to the grant-

ing of injunctions ?

PROF. LASKIN: Well, it all depends what they are granted for, sir.

MR. MYERS: They are granted for violations of the law.

PROF. LASKIN: Well, of course, it's a question as to what . . . I might put it. . . what your boiling point is. If you feel that there is an imminent violation or a violation exists on certain facts, you may make a finding at that in a case where I wouldn't.

MR. MYERS: Have you known of any cases where an interim injunction was dissolved before a trial ?

PROF. LASKIN: Yes, I have known of such cases.

MR. MYERS: Not by consent.

PROF. LASKIN: No. Because the court, for example. . . I am thinking of one case where the judge held that there hadn't been proper disclosure or the affidavits weren't complete. . . in other words, when you apply for an injunction you're appealing to the discretion of the court.

THE CHAIRMAN: Professor, if I may interrupt. . . under the present law, as you know, in applying for an injunction, it's done on ex parte proceedings, without notice to the other party. If the other party against whom the injunction is sought to be obtained, was given forty-eight hours notice and furnished with the material that is to be used on the application for the injunction and with an opportunity to reply by affidavit evidence to the affidavits that are filed by the person seeking the injunction. . . don't you think that that would relieve a great deal of the unsatisfactory situation that exists ?

PROF. LASKIN: Well, this is a tough problem, but I would agree with you. . . I am not very happy about a four day ex parte injunction. I mean, I am not in any way impugning the position, or in any way casting reflection on counsel who apply for ex parte injunctions. . . they may feel they've got a pretty good case and that they would get it on notice or without notice. . .

THE CHAIRMAN: But one side of it only is disclosed to the court. Without any opportunity to reply.

PROF. LASKIN: But, I think that the possibilities for its use are very much there, and you are dealing with a situation. . . it's all very well

to talk about an injunction in the land case. . . the land isn't going to go away . . . it's going to stay there. . . but the labour relations situation is fluid, and it shifts, and it seems to me that some minimum notice, such as you suggest would seem to me to make sense.

THE CHAIRMAN: Now, for example, if you are going to commit a man to a mental institution under the Mental Hospitals Act or a man who is injuring his own health by excessive use of alcohol, for example, you must give him forty-eight hours notice of that application.

PROF. LASKIN: Well, we don't, as a rule in any of our adjudicatory machinery, send people away or do anything to them without notice. This is fundamental in our whole scheme of administration.

MR. MYERS: Could I have your answer to this question. . . just for the record, and that is. . . do I take it that you have known abuses of applications for interim injunctions?

PROF. LASKIN: Well, I can't say that I've known anything personally about it. . .

MR. MYERS: But you've heard. . .

PROF. LASKIN: . . . but I've read about it. I take the record that I've read on research that somebody else has done. I haven't done it personally.

THE CHAIRMAN: Page 16. . . Additional Observations. . .

MR. WREN: What is your comment on the proposal advanced to us that we should have the Right to Work clause put in the legislation?

PROF. LASKIN: The right to work. . . that's a pretty big phrase. . . the right to work. . . I wish I knew what it meant.

MR. MYERS: Mr. Mathews did it very well in his brief. Did you read that?

PROF. LASKIN: No. I am sorry I didn't read it. It's a pretty big phrase. . .

MR. WREN: Well, I mean, as it is now being used and has been legislated in the United States in a number of the States.

PROF. LASKIN: Protection against union organization?

MR. MORNINGSTAR: Maybe against closed shops.

PROF. LASKIN: Well, that's a different thing. . . not against closed shops because the Taft-Hartley Act prohibits the closed shop, but it hasn't any of the more elaborate or embroidered, so-called right to work provisions. The Taft-Hartley operates on the Federal level. . . in federal industry. These right to work laws. . . I don't know. . . they are in about fifteen or eighteen states. . . they operate within States. . . in State operations. Well, the question, of course, is really this. . . I mean, this is a politic question . . . I don't care in what words you are going to put it. . . is the legislation designed to promote and encourage collective bargaining, does it inferentially mean to encourage union organization, or is it designed to discourage it? If you want to put it in those broad terms. . . that is the only way in which I can put it in terms of right to work. . . you talk about the right to work. . . I mean, can I use the legislation to get myself a job? Of course not.

THE CHAIRMAN: I think we heard Mr. Mathews and if Professor Laskin wants to make any representation to us after he has an opportunity . . . I don't think we can hold it up. . . we'll let you have a copy of what Mr. Mathews said, and if you care to write something to us about it, Professor Laskin, we'd be glad to receive it.

PROF. LASKIN: Thank you, Mr. Chairman.

THE CHAIRMAN: Anything else under Additional Observations? . . . Miscellaneous Matters - a. Union Security. . . Page 17. . . Unfair Labour Practices and Free Speech. . . we have already dealt with this, I think. . . c. Strikes by Government Employees.

MR. WREN: Do I understand from your brief that a man cannot be dismissed because of expulsion from the union?

PROF. LASKIN: He cannot be dismissed unless his expulsion results from a failure to pay his dues.

MR. WREN: As long as he pays his dues, or agrees to pay dues, he's all right?

THE CHAIRMAN: Well, you say they have no closed shops over there.

PROF. LASKIN: But the closed shop itself is illegal, I take it on the very simple theory that it is the control of the market. . . the employer

access to the labour market is limited before he hires anybody.

MR. MORNINGSTAR: The closed shop in the United States is illegal?

PROF. LASKIN: Yes, under the American federal law. The Union shop is permitted.

MR. MYERS: In Ontario the police or firemen are prohibited from going on strike, and it has been suggested to us that other civic or government employees should be brought under the same kind of legislation such as some kinds of hospital employees and public utility employees, and so on. Have you any views on extending the present prohibition?

PROF. LASKIN: Well, you'd have to make a pretty arbitrary . . . you'd have to take a pretty arbitrary position on that, and I wouldn't like to jump at anything of that sort unless I had a chance to examine. . .

MR. MYERS: One rather hates to extend anything.

PROF. LASKIN: Well, you see, all of us are affected with a public interest, if you want to put it that way. I mean, you might just as well rub the whole thing out. . .

MR. MYERS: Yes.

THE CHAIRMAN: Page 18. . . Jurisdictional Disputes. . .

MR. MYERS: It is pointed out to us that in the cases where large contracts are being performed there is one collective agreement governing all the trades. . . a union, as it were, of the different unions and the employers, and in particular it has been said that that scheme worked perfectly on the Seaway and certain large Hydro undertakings. It has been pointed out, too, that in the construction industry the conciliation procedures are meaningless because the work is finished long before there can be conciliation, and I was wondering if you have any idea of how the Labour Relations Act can be extended to the construction industry in a practical way?

PROF. LASKIN: Well, Mr. Myers, if you are talking about the jurisdictional dispute situation, I can only say, as I said earlier, that this depends on an effective definition of the bargaining unit. I mean, is it a question of disputed claims to certain work. . . the claims could obviously be resolved by a specification of the bargaining unit, and the bargaining unit tells you what classes of work are covered by the bargaining agent's authority.

MR. MYERS: There's disputes as to which union is to be the bargaining unit.

PROF. LASKIN: Oh, well, but they settled that on an application for certification, I would hope.

MR. MYERS: It arises during the process of the work.

PROF. LASKIN: Well, you see, the real reason. . . the real problem there, Mr. Myers, is that there is a great position of voluntary bargaining in the construction industry. It may be for the very reason that you say that the projects are over and done with before there is any opportunity to make any effective use of its certification, and it could be that on that basis some additional machinery or specification may be necessary. If you could bring it within the ordinary limits of this legislation I don't see why the Labour Relations Board's function in defining the bargaining unit shouldn't be adequate.

THE CHAIRMAN: Page 18. . . Union Welfare Funds. . .

PROF. LASKIN: Well, the big change that was made there by Taft-Hartley, of course, was to provide for the introduction of a neutral person to be a trustee, a co-trustee with employer and union people in administering welfare funds.

MR. MYERS: Has that worked out well, do you know?

PROF. LASKIN: Well, I don't think that there was ever too big of a problem there. I don't know enough about the details, but I don't think. . . nobody would object to impartial administration of such funds. . . I don't see how anybody could.

MR. JACKSON: Yes, but didn't the Bakers' Union get away with a. . . embezzlement?

PROF. LASKIN: Sir. . . I mean, embezzlement and fraud are rife. I mean, this happens in the best regulated. . .

THE CHAIRMAN: Well, I don't think we've got anything to do with that.

PROF. LASKIN: I agree.

THE CHAIRMAN: Administration. . . we've discussed most of this, I believe. Page 19. . . Administration continued. . . Page 20. . . Any further questions, gentlemen? Professor Laskin, on behalf of this Committee

and as chairman of this committee, I can't tell you how very very thankful we are to you for this very wonderful submission, and it may be, sir, that when we are considering what we should recommend that we might feel it necessary to call upon you for some further guidance and assistance if you would be available to us when we are meeting in our private sessions.

PROF. LASKIN: Thank you, Mr. Chairman.

IN CONCLUSION:

THE CHAIRMAN: Mr. Metzler, do you have something for us ?

MR. METZLER: Yes, I do, Mr. Chairman. First of all I distributed to the members of this Committee yesterday a document outlining the breakdown of the numbers of trade union people in the Province of Ontario and also attaching certain tables which indicate the applications made to the Ontario Labour Relations Board for your information. Now, in addition to that, Mr. Chairman, I should like to have permission to, at a later date, to file with the Secretary certain documents which I think would be of interest to the Committee. First of all, you will remember that in the conciliation process that there were some 135 disputes where the boards of conciliation reported. Now, we are planning to file with the Select Committee a statement on the final outcome of the 135 disputes which were not directly settled by the conciliation machinery during the fiscal year 1956-57. We will also file with the Committee a statement on conciliation board chairmen and conciliation board reports for the fiscal year 1955-56 and 1956-57. In addition to that I would like to inform the board that Mr. Reid, the Vice-Chairman of the Ontario Labour Relations Board, is in a position, or could have this afternoon, but I realize you may want to hear him afterwards, or just receive his presentation, to make a presentation on cease and desist orders. We have had him looking into the matter and if it is written, or if you want to have him back. . .

THE CHAIRMAN: No, I think, Mr. Metzler, my own personal opinion is that we feel, at least I feel as chairman of the Committee, and I know the Committee concurs in it, that we might need the benefit of your advice and the advice of Mr. Reid, Professor Finkelman and Mr. Klein during the course of our deliberations when we are attempting to make out our report on this matter.

MR. METZLER: You have anticipated, Mr. Chairman, a statement that I would like to make that we shall be most happy to co-operate with the Committee in any way that we can with any information. . .

MR. MACDONALD: Well, Mr. Chairman, on this one specific suggestion, that Mr. Reid could provide us with a written statement on cease and desist orders, I think that would be extremely valuable.

THE CHAIRMAN: I think if you could have him hand that to the Secretary and he could mail it out to us with some other data he is going to mail to us.

MR. METZLER: Yes. Well, I think there were a number of cases that were brought out in the course of the briefs as to the disposition before the Ontario Labour Relations Board. . . in order to assist the Committee so that when they are considering them a statement will be prepared . . . a factual statement will be prepared.

MR. WARDROPE: Mr. Chairman, I think that we owe a deep debt of gratitude to Mr. Metzler and Mr. Fine and these others for the information they've supplied. They have done a terrific job and I certainly have learned a lot from them since I have been sitting these few days on this Committee.

MR. METZLER: I have one other matter that I wish to refer to. . . I think this should become a part of the record, Mr. Chairman, and that is this, that in the Ontario Federation of Labour brief before this Committee, a statement was made with regard to the activity of Mr. Scott, and I asked Mr. Scott to prepare a Memorandum on this particular situation. It's not too long and I'll read it and read it quickly to you if you so desire. It is addressed to Mr. Fine, and I am going to file the original with the Secretary.

(MR. METZLER READ MEMORANDUM)

THE CHAIRMAN: You have the original?

MR. METZLER: That is the original, sir. I will give it to the Secretary. Well, Mr. Chairman, I would like to express my appreciation for the courtesy with which the officers of the Department of Labour have been treated by your Committee and to assure you of our continuing desire to be of service to this Committee. It has been a great pleasure, personally, for me to appear and I appreciate the kindnesses that have been shown to me.

THE CHAIRMAN: I want to thank you, Mr. Metzler, as chairman of the Committee for the invaluable assistance that you've given us, the religious attendance with which you have been present at our meetings and it is needless for me to say, I am sure, that I speak the minds of all of the members of the Committee, I believe, when I say that you have performed a tremendous service

to this Committee by the assistance that you personally have given, and also as have the other members of your Department by the contributions they have made, and as I have already intimated, I feel that as chairman of the Committee that it is going to be vitally necessary for us to have further assistance from you when we are considering certain aspects of our report, and I do hope that you and the other gentlemen upon whom we might wish to call, will hold yourselves available at that time.

Now, gentlemen, that would appear to conclude the hearings of this . . . to be presented to this Committee. Today is Thursday, May 15th. . . my own personal opinion is that there has been such a tremendous amount of evidence in the way of briefs and examination of witnesses produced before us, that in order to do justice to ourselves as individual members of the Committee, and also to assist us in arriving at what we individually think should be done insofar as any suggestions we have to make with reference improving or maintaining the Labour Relations Act as it is presently constituted, changing it or amending it, or deleting certain sections from it, . . . my suggestion is that this Committee should adjourn until Monday, the ninth day of June. That will give us three weeks in which to digest this material and at the same time permit us to perform some of our other duties of our stations in life, but I don't think that it would be reasonable to expect this Committee to sit down and attempt to make an intelligent report before we have had the opportunity of going over as thoroughly as we are capable of doing, the masses of submissions that have been made to us.

Will that meet with your convenience, Mr. Walsh, as Counsel to this Committee?

MR. WALSH: Do I understand that you are going to adjourn until June 9th?

THE CHAIRMAN: Monday, the 9th of June.

MR. WALSH: And then continue it until. . .

THE CHAIRMAN: Continue it until we get through with it. Will that meet with the convenience of your officials, Mr. Metzler? Does that meet with the convenience of the members of the Committee.

MR. MYERS: Might I simply make this suggestion, Mr. Chairman? That is, I think the evidence of Professor Laskin is so important

that it ought to be produced in writing and distributed.

THE CHAIRMAN: Well, we'll get it in the Minutes.

MR. MYERS: Yes, I mean but, typed and so on. . .

THE CHAIRMAN: Oh, we'll have that almost immediately.

MR. JACKSON: Mr. Chairman, I have another suggestion that I will put forward for what it is worth, and that has to do with where we meet. I was talking to a gentlemen who was on the Toll Roads Committee and he said that if he had to come here every day. . . meeting in Toronto, in the Buildings here, he said. I don't particularly care where we meet, but I think there is merit in the suggestion that we meet other than here in the Buildings. . .

MR. METZLER: (OFFERED THE FACILITIES OF THE DEPARTMENT OF LABOUR BUILDING AT 8 YORK STREET FOR THE PRIVATE SESSIONS OF THE COMMITTEE. . . REPORTER'S NOTE: At this point the tape was being changed and Mr. Metzler's words were lost.)

MR. MACDONALD: Mr. Chairman, may I ask another question though. . . how are we proposing to come to grips with this. . . in the sort of breakdown or summation of proposals or recommendations that have been made, I presume the secretary is going to be able to complete that and bring it up to date. . . and I'm wondering whether . . . are we going to approach it in terms of taking each Section of the Act?

THE CHAIRMAN: Well, I think that that would be very very unwise. . . and the Secretary has compiled a memorandum dealing with each Section upon which submissions have been made, but I think we would be very unwise to approach it from, say. . . now, here's Section 1, have we got anything to say about that. . . Section 2. . . we'd just drive ourselves crazy. There are certain things that stand out in connection with the submissions that have been made to us. I think if we can agree on what those things are, first, like certification. . . .

MR. MACDONALD: This is tantamount to saying that we take a look at the seventy-eight Sections and say -- the ones that are important are these twenty because these are the ones on which we've got the recommendations.

THE CHAIRMAN: Well, I think we can deal with those first.

That those would appear to be the ones in which both labour and management are most vitally interested.

MR. MACDONALD: No, but. . . we're not in disagreement because, instead of taking all seventy-eight we are going to take the twenty- - -

MR. METZLER: I would hate to inject myself into a discussion of this character, but I would like to point out one thing that we have found out in our experience in dealing with this legislation. . . if you try to take it Section by Section, as Mr. Maloney says, you'll drive yourselves crazy. You have to take it by topics, and I think. . . for instance, you will remember that we amended the legislation to provide for bargaining through a trade union council . . . now, once we had established the principle to our satisfaction that that was the type of bargaining that was going to be permitted, to the legislative counsel. . . we wrote to the legislative counsel and requested him to make the necessary amendments, and he gave us the draft of the Bill, but in order to just accomplish that I think that there had to be slight amendments to about fifteen different Sections, and it's a very difficult problem. . . I suggest to you gentlemen, if I may, from any experience I have. . . if you can reduce your . . . to a topical level. . . and say now, we are prepared, for instance, to talk about, say, Section. . . Municipalities. . . the bargaining there. Now, that's a topic. If it is a question of the inclusion or exclusion from the Act. . . that's another topic, and if you put it on a topical level then as you come to a conclusion you can resolve the thing, but if you get into the mire of trying to go Section by Section. . .

THE CHAIRMAN: And, then, following that out, if our recommendations, which we hope we will unanimously arrive at. . . if they are adopted by the Legislature, then it will be up to those who have the duty imposed upon them of drafting legislation, to see that the necessary amendments are made to the different Sections of the Act by law.

MR. MACDONALD: One other suggestion, Mr. Chairman, we have Bora Laskin, and members of the Department who are available. . . personally. . . a suggestion was made earlier and it still strikes me as being very sound. . . is, after we have gone through some of this there may be still unresolved differences. . . I think it would be useful, in private sessions, to

have two people. . . now, I'll mention the two obvious people are Norman Mathews and John Osler who have been before us. . . and this is without having to protect their position or anything. . . in private.

THE CHAIRMAN: And there is another aspect to the situation, too. You will notice that although we invited four judges to appear that none of them have done so. Now, I have no reason for saying this, but I have, in my own mind, reasons to believe that possibly the reason they did not appear was these were public sessions and they didn't want any publicity about their thinking, but I do think that they could be invited to attend some of our private sessions when we are dealing with the Act.

MR. METZLER: Well, I make this Board Room available, it is an excellent Board Room. I will provide for stenographic service to the Committee and also, in view of the fact that some of you will have many other things that you will be wanting to attend to, I will try to give you a certain amount of secretarial help so that you will have assistance in your normal duties as members of the Legislature.

THE CHAIRMAN: Thank you. Now, the Secretary is going to send out to each member of the Committee certain additional compilations that he has made. He was going to hand them to us, but I advised him not to, but to mail them to us, then we'd be sure we had them and wouldn't forget them.

MR. PERKINS: Mr. Chairman, I have some additional data on the Taft-Hartley Act prepared by Mr. Donald McLeod, and also by Miss Lawrenson of the Department of Labour at Ottawa. I have a paper on the Labour Relations situation in Great Britain, and I also have a very interesting paper from Donald McLeod on the Labour Relations Act, and, then, as you mentioned, I have a complete summary of all the recommendations which the Committee will need, and it is your instructions that these be mailed out. . .

THE CHAIRMAN: Did you get that book that we authorized you to order?

MR. PERKINS: It hasn't arrived yet, sir.

THE CHAIRMAN: Well, mail that to us, too. What book was that again, Mr. Perkins? What was that book?

MR. PERKINS: The book was a symposium that was held at

Cornell University, and it contains eight separate papers by people expert s in those eight particular fields as to the situation in regard to the Taft-Hartley Act. So, it will be a very good supplement to what we've already heard this morning. . . if I can get it in time.

MR. MACDONALD: I think we should make our services available to the American Government after we have finished this.

THE CHAIRMAN: Gentlemen, I declare this session of this Committee adjourned until ten of the clock on Monday, the ninth day of June at a room to be provided by the Department of Labour at 8 York Street.

CONCLUSION OF HEARINGS

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